TITLE 7—AGRICULTURE

Chap.		Sec.
1.	Commodity Exchanges	1
2.	Cotton Standards	51
3.	Grain Standards	71
4.	Naval Stores	91
5.	Importation of Adulterated Seeds [Repealed]	111
6.	Insecticides and Environmental Pesticide Control	121
7.	Insect Pests Generally	141
7A.	Golden Nematode	150
7B.	Plant Pests	150aa
8.	Nursery Stock and Other Plants and Plant Products	151
8A.	Rubber	171
9.	Packers and Stockyards	181
10.	Warehouses	241
11.	Honeybees	281
12.	Associations of Agricultural Products Producers	291
13.	Agricultural and Mechanical Colleges	301
14.	Agricultural Experiment Stations	361
15.	Bureau of Animal Industry	391
16.	Bureau of Dairy Industry	401
17.	Miscellaneous Matters	411
18.	Cooperative Marketing	451
19.	Cotton Statistics and Estimates	471
20.	Dumping or Destruction of Interstate Produce	491
20A.	Perishable Agricultural Commodites	499a
21.	Tobacco Statistics	501
21A.	Tobacco Inspection	511
21B.	Tobacco Control	515
22.	Agricultural Marketing	521
23.	Foreign Agricultural Service [Repealed]	541
24.	Perishable Agricultural Commodities	551
25.	Export Standards for Apples and Pears	581
25A.	Export Standards for Grapes and Plums	591
26.	Agricultural Adjustment	601
26A.	Agricultural Marketing Agreements	671
27.	Cotton Marketing	701
28.	Tobacco Industry [Repealed]	751
29.	Potato Act of 1935 [Repealed]	801
30.	Anti-Hog-Cholera Serum and Hog-Cholera Virus	851
31.	Rural Electrification and Telephone Service	901
32.	Peanut Statistics	951
33.	Farm Tenancy	1000
34.	Sugar Production and Control	1100
35.	Agricultural Adjustment Act of 1938	1281
35A.	Price Support of Agricultural Commodities	1421
36.	Crop Insurance	1501
37.	Seeds	1551
38.	Distribution and Marketing of Agricultural Products	1621
39.	Stabilization of International Wheat Market	1641
40.	Halogeton Glomeratus Control	1651
41.	Agricultural Trade Development and Assistance	1691
42.	Agricultural Commodity Set-Aside	1741
43.	Agricultural Attachés	1761
44.	Wool Program	1781
45.	Soil Bank Program	1801
46.	Surplus Disposal of Agricultural Commodities	1851
47.	Interchange of Department of Agriculture and State Employees [Repealed]	1881
48.	Humane Methods of Livestock Slaughter	1901
49.	Consultation on Agricultural Programs	1911
50.	Agricultural Credit	1921
51.	Food Stamp Program	2011
52.	Farm Labor Contractor Registration	2041
53.	Cotton Research and Promotion	2101
54.	Transportation, Sale, and Handling of Certain Animals	2131
55.	Department of Agriculture	2201
56.	Unfair Trade Practice Affecting Producers of Agricultural Products	2301
57.	Plant Variety Protection	2321
58.	Potato Research and Promotion	2611
59.	Rural Fire Protection, Development, and Small Farm Research and Education	2651
60.	Egg Research and Consumer Information	2701
61.	Noxious Weeds	2801
62.	Beef Research and Information	2901
63.	Farmer to Consumer Direct Marketing	3001

CHAPTER 1—COMMODITY EXCHANGES

Sec.

1. Short title.
2. Definitions.
3. Transaction in interstate commerce.
4. Liability of principal for act of agent.
4a. Commodity Futures Trading Commission
   - (a) Establishment; composition; term of Commissioners.
   - (b) Vacancies.
   - (c) General Counsel.
   - (d) Executive Director.
   - (e) Powers and functions of Chairman.
   - (f) Conflict of interest.
   - (g) Liaison with Department of Agriculture.
   - (h) Transmittal of budget requests and legislative recommendations to Congressional Committees.
   - (i) Seal.
   - (j) Rules and regulations.

Sec.
5. Resolution declaring dangerous tendency of dealings in commodity futures.
6. Prohibition against dealings in commodity futures; exceptions.
6a. Excessive speculation as burden on interstate commerce; trading or position limits; control; hedging transactions; application of section.
6b. Contracts designed to defraud or mislead; bucketing orders; buying and selling orders for cotton.
6c. Wash sales; cross trades; fictitious sales; privileges; offers; puts; calls; guaranties.
6d. Futures commission merchants, dealing by unregistered merchants prohibited; moneys and securities of customers, care and use.
6e. Floor brokers; dealings by unregistered broker prohibited.
6f. Registration of commission merchants and brokers; financial requirements of futures commission merchants.
6g. Reporting and recordkeeping.
6h. Dealing other than through member of contract market.
6i. Reports of deals equal to or in excess of trading limits; books and records; cash and controlled transactions.
6j. Trades and executions by floor brokers; trades by futures commission merchants.
6k. Registration of associates of futures commission merchants.
6l. Commodity trading advisors and commodity pool operators; Congressional finding.
6m. Use of mails or other means or instrumentalities of interstate commerce by commodity trading advisors and commodity pool operators.
6n. Registration of commodity trading advisors and commodity pool operators; application; expiration and renewal; record keeping and reports; disclosure; statements of account; denial of registration; revocation or suspension.
6o. Fraud and misrepresentation by commodity trading advisors and commodity pool operators.
6p. Standards and examinations.
7. Designation of board of trade as "contract market"; conditions and requirements.
7a. Duties of contract markets.
(1) Bylaws, rules, etc.; furnishing copies to Commission.
(2) Access for inspection of books and records.
(3) Books and records of warehouses; keeping and inspection.
(4) Periods of delivery; provisions for.
(5) Notice of date of intended delivery.
(6) United States standards; conformity of grades to.
(7) Warehouse receipts as satisfaction of futures contract.
(8) Enforcement of bylaws, etc., relating to trading requirements.
(9) Enforcement of bylaws, etc., providing minimum financial standards and related reporting requirements.
(10) Delivery points.
(11) Settlement of customers' claims and grievances.
(12) Commission approval of bylaws, rules, regulations, and resolutions.
7b. Suspension or revocation of designation as "contract market."
8. Application for designation as "contract market"; suspension or revocation of designation; hearing; review by court of appeals.

Sec.
9. Exclusion of persons from privilege of "contract markets"; procedure for exclusion; review by court of appeals.
9a. Assessment of money penalties.
10. Repealed.
10a. Cooperative associations and corporations, exclusion from board of trade; rules of board inapplicable to payment of compensation by association.
11. Vacation on request of designation as "contract market"; redesignation.
12. Investigations and reports by Secretary.
12-1. Disclosure of names of traders on the commodity markets by Commission.
12-2. Annual report to Congress.
12-3. Reviews and audits by Comptroller General.
12a. Registration of commission merchants and brokers; fees; rules and regulations; publication of harmful acts; disapproval of bylaws, etc.
12b. Trading ban violations; prohibition.
12c. Disciplinary actions; notice; review of action by Commission.
13. Violations generally; punishment; costs of prosecution.
(a) Embezzlement, larceny, etc.; felony; value.
(b) Price manipulation; cornering; postal or interstate dissemination of false or misleading information affecting price of commodity in interstate commerce; felony.
(c) Other violations; misdemeanors.
(d) Transactions by Commissioners and Commission employees prohibited.
(e) Use of information by Commissioners and Commission employees prohibited.
13-1. Violations, prohibition against dealings in onion futures; punishment.
13a. Nonenforcement of rules of government or other violations; cease and desist orders; fines and penalties; imprisonment; misdemeanor; separate offenses.
13a-1. Action to enjoin or restrain violations; compliance; writs and orders; jurisdiction and venue; process.
13b. Manipulations or other violations; cease and desist orders against persons other than contract markets; punishment; misdemeanor or felony; separate offenses.
13c. Responsibility as principal; minor violations.
14. Omitted.
15. Provisions of Interstate Commerce Act made applicable.
15a. Leverage contracts for gold and silver.
15b. Cotton futures contracts.
(a) Short title.
(b) Repeal of tax on cotton futures.
(c) Definitions.
(d) Bona fide spot markets and commercial differences.
(e) Form and validity of cotton futures contracts.
(f) Basic grade contracts.
(g) Tendered grade contracts.
(h) Specific grade contracts.
(i) Liability of principal for acts of agent.
(j) Regulations.
(k) Violations.
(l) Applicability to contracts prior to effective date.
(m) Authorization.
16. Commission operations.
(a) Cooperation with other agencies.
(b) Employment of investigators, experts, Administrative Law Judges, consultants, clerks, and other personnel; contracts.

Sec.
(c) Expenses.
(d) Authorization of appropriations.
17. Separability of provisions.
17a. Separability of 1936 amendment.
17b. Separability of 1968 amendment.
18. Complaints against registered persons.
(a) Petition.
(b) Investigation and hearing.
(c) Determination.
(d) Bond requirement when complainant is nonresident; waiver.
(e) Reparations.
(f) Enforcement of reparation award.
(g) Review.
(h) Penalty.
(i) Effective date.
19. Antitrust laws; anticompetitive means.
20. Market reports.
(a) Information.
(b) Avoidance of duplication.
(c) Furnishing of information; confidentiality.
(d) Disclosure of business transactions, trade secrets, or names of customers.
21. Registered futures associations.
(a) Registration statement.
(b) Standards for registration; Commission findings.
(c) Suspension of registration.
(d) Fees and charges.
(e) Registered persons not members of registered associations.
(f) Denial of registration.
(g) Withdrawal from registration; notice of withdrawal.
(h) Commission review of disciplinary actions taken by registered futures associations.
(i) Notice; hearing; findings; cancellation, reduction, or remission of penalties.
(j) Changes or additions to association rules.
(k) Abrogation of association rules; requests to associations by Commission to alter or supplement rules.
(l) Suspension and revocation of registration; expulsion of members; removal of association officers or directors.
(m) Reports to Congress.
22. Research and information programs; reports to Congress.

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in sections 15b, 499n of this title; title 15 section 431; title 26 section 277.

§ 1. Short title.

This chapter may be cited as the "Commodity Exchange Act."

(Sept. 21, 1922, ch. 369, § 1, 42 Stat. 998; June 15, 1936, ch. 545, § 1, 49 Stat. 1491.)

AMENDMENTS

1936—Act June 15, 1936, substituted "Commodity Exchange Act" for "The Grain Futures Act".

EFFECTIVE DATE OF 1936 AMENDMENT

Section 13 of act June 15, 1936, provided that all provisions of that act authorizing the registration of futures commission merchants and floor brokers, the fixing of fees and charges therefor, the promulgation of rules, regulations and orders, and the holding of hearings precedent to such promulgation should be effective June 15, 1936, and that all other provisions of that act should take effect ninety days after June 15, 1936.

PRIOR PROVISIONS

This chapter superseded act Aug. 24, 1921, ch. 86, 42 Stat. 187, known as "The Future Trading Act," which act was declared unconstitutional, at least in part, in Hill v. Wallace, Ill. 1922, 42 S. Ct. 453, 259 U.S. 44, 66 L. Ed. 822. Section 3 of that act was found unconstitutional as imposing a penalty in Trusler v. Crooks, Mo. 1926, 46 S. Ct. 165, 269 U.S. 475, 70 L. Ed. 365.

SHORT TITLE OF 1974 AMENDMENT

Section 1 of Pub. L. 93-463 provided: "That this Act [enacting this section and sections 6j, 6k, 6l, 6m, 6n, 6o, 6p, 9a, 12-2, 13-3, 12c, 13a-1, 15a, 18, 19, 20, 21, and 22 of this title, amending sections 2, 4, 6, 6a, 6b, 6c, 6d, 6e, 6f, 6g, 6i, 7, 7a, 7b, 8, 9, 11, 12, 12-1, 12a, 12b, 13, 13a, 13b, 13c, 15, and 16 of this title and sections 5314, 5315, 5316, and 5108 of Title 5, Government Organization and Employees, and enacting provisions set out as notes under this section and sections 2 and 6a of this title] may be cited as the 'Commodity Futures Trading Commission Act of 1974'."

CROSS REFERENCES

Power of Congress to regulate interstate commerce, see Const. Art. 1, § 8, cl. 3.

§ 2. Definitions

For the purposes of this chapter "contract of sale" shall be held to include sales, agreements of sale, and agreements to sell. The word "person" shall be construed to import the plural or singular, and shall include individuals, associations, partnerships, corporations, and trusts. The word "commodity" shall mean wheat, cotton, rice, corn, oats, barley, rye, flaxseed, grain sorghums, mill feeds, butter, eggs. Solanum tuberosum (Irish potatoes), wool, wool tops, fats and oils (including lard, tallow, cottonseed oil, peanut oil, soybean oil and all other fats and oils), cottonseed meal, cottonseed, peanuts, soybeans, soybean meal, livestock, livestock products, and frozen concentrated orange juice, and all other goods and articles, except onions as provided in section 13-1 of this title, and all services, rights, and interests in which contracts for future delivery are presently or in the future dealt in: *Provided,* That the Commission shall have exclusive jurisdiction with respect to accounts, agreements (including any transaction which is of the character of, or is commonly known to the trade as, an "option", "privilege", "indemnity", "bid", "offer", "put", "call", "advance guaranty", or "decline guaranty"), and transactions involving contracts of sale of a commodity for future delivery, traded or executed on a contract market designated pursuant to section 7 of this title or any other board of trade, exchange, or market, and transactions subject to regulations by the Commission pursuant to section 15a of this title: *And provided further,* That, except as hereinabove provided, nothing contained in this section shall (i) supersede or limit the jurisdiction at any time conferred on the Securities and Exchange Commission or other regulatory authorities under the laws of the United States or of any State, or (ii) restrict the Securities and Exchange Commission and such other authorities from carrying out their duties and responsibilities in accordance with such laws. Nothing in this section shall supersede or limit the juris-

diction conferred on courts of the United States or any State. Nothing in this chapter shall be deemed to govern or in any way be applicable to transactions in foreign currency, security warrants, security rights, resales of installment loan contracts, repurchase options, government securities, or mortgages and mortgage purchase commitments, unless such transactions involve the sale thereof for future delivery conducted on a board of trade. The term "future delivery", as used in this chapter, shall not include any sale of any cash commodity for deferred shipment or delivery. The words "board of trade" shall be held to include and mean any exchange or association, whether incorporated or unincorporated, of persons who shall be engaged in the business of buying or selling commodity or receiving the same for sale on consignment. The words "interstate commerce" shall be construed to mean commerce between any State, Territory, or possession, or the District of Columbia, and any place outside thereof; or between points within the same State, Territory, or possession, or the District of Columbia, but through any place outside thereof, or within any Territory or possession, or the District of Columbia. The words "cooperative association of producers" shall mean any cooperative association, corporate or otherwise, not less than 75 per centum in good faith owned or controlled, directly or indirectly, by producers of agricultural products and otherwise complying with sections 291 and 292 of this title, including any organization acting for a group of such associations and owned or controlled by such associations, provided that business done for or with the United States of America, or any agency thereof, shall not be considered either member or nonmember business in determining the compliance of any such association with said sections. The words "member of a contract market" shall mean and include individuals, associations, partnerships, corporations, and trusts owning or holding membership in, or admitted to membership representation on, a contract market or given members' trading privileges thereon. The words "futures commission merchant" shall mean and include individuals, associations, partnerships, corporations, and trusts engaged in soliciting or in accepting orders for the purchase or sale of any commodity for future delivery on or subject to the rules of any contract market and that, in or in connection with such solicitation or acceptance of orders, accepts any money, securities, or property (or extends credit in lieu thereof) to margin, guarantee, or secure any trades or contracts that result or may result therefrom. The words "floor broker" shall mean any person who, in or surrounding any "pit", "ring", "post", or other place provided by a contract market for the meeting of persons similarly engaged, shall purchase or sell for any other person any commodity for future delivery on or subject to the rules of any contract market. The words "the Commission" shall mean the Commodity Futures Trading Commission established under section 4a of this title. The term "commodity trading advisor" shall mean any person who, for compensation or profit, engages in the business of advising others, either directly or through publications or writings, as to the value of commodities or as to the advisability of trading in any commodity for future delivery on or subject to the rules of any contract market, or who for compensation or profit, and as part of a regular business, issues or promulgates analyses or reports concerning commodities; but does not include (i) any bank or trust company, (ii) any newspaper reporter, newspaper columnist, newspaper editor, lawyer, accountant, or teacher, (iii) any floor broker or futures commission merchant, (iv) the publisher of any bona fide newspaper, news magazine, or business or financial publication of general and regular circulation including their employees, (v) any contract market, and (vi) such other persons not within the intent of this definition as the Commission may specify by rule, regulation, or order: *Provided,* That the furnishing of such services by the foregoing persons is solely incidental to the conduct of their business or profession. The term "commodity pool operator" shall mean any person engaged in a business which is of the nature of an investment trust, syndicate, or similar form of enterprise, and who, in connection therewith, solicits, accepts, or receives from others, funds, securities, or property, either directly or through capital contributions, the sale of stock or other forms of securities, or otherwise, for the purpose of trading in any commodity for future delivery on or subject to the rules of any contract market, but does not include such persons not within the intent of this definition as the Commission may specify by rule or regulation or by order.

(Sept. 21, 1922, ch. 369, § 2(a)(1), formerly § 2(a), 42 Stat. 998; June 15, 1936, ch. 545, §§ 2, 3, 49 Stat. 1491; Apr. 7, 1938, ch. 108, 52 Stat. 205; Oct. 9, 1940, ch. 786, § 1, 54 Stat. 1059; Aug. 28, 1954, ch. 1041, title VII, § 710(a), 68 Stat. 913; July 26, 1955, ch. 382, § 1, 69 Stat. 375; Feb. 19, 1968, Pub. L. 90-258, § 1, 82 Stat. 26; July 23, 1968, Pub. L. 90-418, 82 Stat. 413; renumbered and amended Oct. 23, 1974, Pub. L. 93-463, title I, § 101(a)(1), (2), title II, §§ 201, 202, 88 Stat. 1389, 1395.)

CODIFICATION

Section consists of part of subsec. (a)(1) of section 2 of the Commodity Exchange Act, act Sept. 21, 1922. The remainder of such subsec. (a)(1) is classified to section 4 of this title. Subsecs. (a)(2) to (11) of section 2 of the Commodity Exchange Act are classified to section 4a of this title. Subsec. (b) of section 2 of the Commodity Exchange Act is classified to section 3 of this title.

AMENDMENTS

1974—Pub. L. 93-463 struck out "onions," following "eggs," in the definition of "commodity" and added provisions to that definition to include as commodities all other goods and articles, except onions as provided in section 13-1 of this title, and all services, rights, and interests in which contracts for the future delivery are presently or in the future dealt in, added definitions for the terms "commodity trading advisor" and "commodity pool operator", and, as the definition of the words "the Commission", substituted "Commodity Futures Trading Commission established under section 4a of this title" for "Commodity Exchange Commission, consisting of the Secretary of Agriculture, the Secretary of Commerce, and the Attorney General, or an official or employee of each of the executive departments concerned, designated by the Secretary of Agriculture, the Secretary of Commerce, and the At-

torney General, respectively; and the Secretary of Agriculture or his designee shall serve as Chairman".

1968—Pub. L. 90-418 extended definition of "commodity" in third sentence to include frozen concentrated orange juice.

Pub. L. 90-258, § 1(a), extended definition of "commodity" in third sentence to include livestock and livestock products.

Pub. L. 90-258, § 1(b), substituted in definition of "floor broker" in penultimate sentence "purchase or sell for any other person" for "engage in executing for others any order for the purchase or sale of" and deleted therefrom provision for receipt or acceptance of any commission or other compensation for services as a floor broker.

Pub. L. 90-258, § 1(c), provided in the last sentence for representation on the Commission of the Secretary of Agriculture, Secretary of Commerce, and Attorney General by an official or employee designated from executive department concerned and for service of the Secretary of Agriculture or his designee as the Chairman.

1955—Act July 26, 1955, extended "commodity" to onions.

1954—Act Aug. 28, 1954, extended "commodity" to wool.

1940—Act Oct. 9, 1940, extended "commodity" to "fats and oils (including lard, tallow, cottonseed oil, peanut oil, soybean oil, and all other fats and oils), cottonseed meal, cottonseed, peanuts, soybeans and soybean meal."

1938—Act Apr. 7, 1938, extended "commodity" to "wool tops."

1936—Act June 15, 1936, substituted "commodity", "any commodity", or "commodities" for "grain" wherever appearing, and "any cash commodity" for "cash grain", and added definitions of "cooperative association of producers," "member of a contract market", "futures commission merchant", "floor broker" and "the commission."

EFFECTIVE DATE OF 1974 AMENDMENT

Section 418 of Pub. L. 93-463 provided that:

"(a) Except as otherwise provided specifically in this Act [see Short Title note under section 4a of this title], the effective date of this Act shall be the 180th day after enactment [Oct. 23, 1974]. The Commission referred to in section 101 [Commodity Futures Trading Commission] is hereby established effective immediately on enactment of this Act [Oct. 23, 1974]. Sections 102 and 410 [amending sections 5108, 5314, 5315, and 5316 of title 5] shall be effective immediately on enactment of this Act [Oct. 23, 1974]. Activities necessary to implement the changes effected by this Act may be carried out after the date of enactment [Oct. 23, 1974] and before as well as after the 180th day thereafter. Activities to be carried out after the date of enactment [Oct. 23, 1974] and before the 180th day thereafter may include, but are not limited to the following: Designation of boards of trade as contract markets, registration of futures commission merchants, floor brokers, and other persons required to be registered under the Act [this chapter], approval or modification of bylaws, rules, regulations, and resolutions of contract markets, and issuance of regulations, effective on or after the 180th day after enactment [Oct. 23, 1974]; appointment and compensation of the members of the Commission; hiring and compensation of staff; and conducting of investigations and hearings. Nothing in this Act shall limit the authority of the Secretary of Agriculture or the Commodity Exchange Commission under the Commodity Exchange Act, as amended, prior to the 180th day after enactment of this Act [Oct. 23, 1974].

"(b) Funds appropriated for the administration of the Commodity Exchange Act, as amended [this chapter], may be used to implement this Act [see Short Title note under section 4a of this title] immediately after the date of enactment of this Act [Oct. 23, 1974]."

EFFECTIVE DATE OF 1968 AMENDMENT

Section 28 of Pub. L. 90-258 provided that: "This Act [which enacted sections 12b, 13b, and 13c, and amended sections 2, 6a(1), (2)(B), (3), 6b, 6d, 6f(1), (2), 6g, 6i, 7(b), (f), 7a(2), (8), (9), 7b, 8, 9, 12, 12-1, 12a(2) to (4), (7), 13, and 13a of this title] shall become effective one hundred and twenty days after enactment [Feb. 19, 1968]."

EFFECTIVE DATE OF 1955 AMENDMENT

Section 2 of act July 26, 1955, provided that the amendment to this section by that act shall become effective 60 days after July 26, 1955.

EFFECTIVE DATE OF 1954 AMENDMENT

Section 710(b) of act Aug. 28, 1954, provided that the amendment of this section shall become effective 60 days after Aug. 28, 1954.

EFFECTIVE DATE OF 1940 AMENDMENT

Section 2 of act Oct. 9, 1940, provided that the amendment of this section shall become effective 60 days after October 9, 1940.

EFFECTIVE DATE OF 1936 AMENDMENT

Amendment effective 90 days after June 15, 1936, see note under section 1 of this title.

CROSS REFERENCES

Onion futures transactions, definitions, applicable, see section 13-1 of this title.

Transaction in interstate commerce, see section 3 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 6c of this title.

SECTION REFERRED TO IN D.C. CODE

This section is referred to in section 1-1182 of the District of Columbia Code.

§ 3. Transaction in interstate commerce

For the purposes of this chapter (but not in any wise limiting the definition of interstate commerce in section 2 of this title) a transaction in respect to any article shall be considered to be in interstate commerce if such article is part of that current of commerce usual in the commodity trade whereby commodity and commodity products and by-products thereof are sent from one State, with the expectation that they will end their transit, after purchase, in another, including in addition to cases within the above general description, all cases where purchase or sale is either for shipment to another State, or for manufacture within the State and the shipment outside the State of the products resulting from such manufacture. Articles normally in such current of commerce shall not be considered out of such commerce through resort being had to any means or device intended to remove transactions in respect thereto from the provisions of this chapter. For the purpose of this section the word "State" includes Territory, the District of Columbia, possession of the United States, and foreign nation.

(Sept. 21, 1922, ch. 369, § 2(b), 42 Stat. 998; June 15, 1936, ch. 545, § 2, 49 Stat. 1491.)

CODIFICATION

Section constitutes subsec. (b) of section 2 of the Commodity Exchange Act, act Sept. 21, 1922. Part of subsec. (a) of such section 2 is classified to section 2

and the remainder of such subsec. (a) is classified to sections 4 and 4a of this title.

AMENDMENTS

1936—Act June 15, 1936, substituted "commodity" for "grain" throughout.

EFFECTIVE DATE OF 1936 AMENDMENT

Amendment effective 90 days after June 15, 1936, see note under section 1 of this title.

CROSS REFERENCES

Interstate commerce defined, see section 2 of this title.

Power of Congress to regulate interstate commerce, see Const. Art. 1, § 8, cl. 3.

§ 4. Liability of principal for act of agent

For the purpose of this chapter the act, omission, or failure of any official, agent, or other person acting for any individual, association, partnership, corporation, or trust within the scope of his employment or office shall be deemed the act, omission, or failure of such individual, association, partnership, corporation, or trust, as well as of such official, agent, or other person.

(Sept. 21, 1922, ch. 369, § 2(a)(1), formerly § 2(a), 42 Stat. 998; renumbered Oct. 23, 1974, Pub. L. 93-463, title I, § 101(a)(1), 88 Stat. 1389.)

CODIFICATION

Section consists of part of subsec. (a)(1) of section 2 of the Commodity Exchange Act, act Sept. 21, 1922. The remainder of such subsec. (a)(1) is classified to section 2 of this title. Subsecs. (a)(2) to (11) of section 2 of the Commodity Exchange Act are classified to section 4a of this title. Subsec. (b) of section 2 of the Commodity Exchange Act is classified to section 3 of this title.

§ 4a. Commodity Futures Trading Commission

(a) Establishment; composition; term of Commissioners

There is hereby established, as an independent agency of the United States Government, a Commodity Futures Trading Commission. The Commission shall be composed of a Chairman and four other Commissioners, who shall be appointed by the President, by and with the advice and consent of the Senate. In nominating persons for appointment, the President shall seek to establish and maintain a balanced Commission, including, but not limited to, persons of demonstrated knowledge in futures trading or its regulation and persons of demonstrated knowledge in the production, merchandising, processing or distribution of one or more of the commodities or other goods and articles, services, rights and interests covered by this chapter. Not more than three of the members of the Commission shall be members of the same political party. Each Commissioner shall hold office for a term of five years and until his successor is appointed and has qualified, except that he shall not so continue to serve beyond the expiration of the next session of Congress subsequent to the expiration of said fixed term of office, and except (A) any Commissioner appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term, and (B) the terms of office of the Commissioners first taking office after the enactment of this paragraph shall expire as designated by the President at the time of nomination, one at the end of one year, one at the end of two years, one at the end of three years, one at the end of four years, and one at the end of five years.

(b) Vacancies

A vacancy in the Commission shall not impair the right of the remaining Commissioners to exercise all the powers of the Commission.

(c) General Counsel

The Commission shall have a General Counsel, who shall be appointed by the Commission and serve at the pleasure of the Commission. The General Counsel shall report directly to the Commission and serve as its legal advisor. The Commission shall appoint such other attorneys as may be necessary, in the opinion of the Commission, to assist the General Counsel, represent the Commission in all disciplinary proceedings pending before it, represent the Commission in courts of law whenever appropriate, assist the Department of Justice in handling litigation concerning the Commission in courts of law, and perform such other legal duties and functions as the Commission may direct.

(d) Executive Director

The Commission shall have an Executive Director, who shall be appointed by the Commission, by and with the advice and consent of the Senate, and serve at the pleasure of the Commission. The Executive Director shall report directly to the Commission and perform such functions and duties as the Commission may prescribe.

(e) Powers and functions of Chairman

(1) Except as otherwise provided in this paragraph and in paragraphs (c) and (d) of this section, the executive and administrative functions of the Commission, including functions of the Commission with respect to the appointment and supervision of personnel employed under the Commission, the distribution of business among such personnel and among administrative units of the Commission, and the use and expenditure of funds, shall be exercised solely by the Chairman.

(2) In carrying out any of his functions under the provisions of this paragraph, the Chairman shall be governed by general policies of the Commission and by such regulatory decisions, findings, and determination as the Commission may by law be authorized to make.

(3) The appointment by the Chairman of the heads of major administrative units under the Commission shall be subject to the approval of the Commission.

(4) Personnel employed regularly and full time in the immediate offices of Commissioners other than the Chairman shall not be affected by the provisions of this paragraph.

(5) There are hereby reserved to the Commission its functions with respect to revising budget estimates and with respect to determining the distribution of appropriated funds according to major programs and purposes.

(6) The Chairman may from time to time make such provisions as he shall deem appro-

priate authorizing the performance by any officer, employee, or administrative unit under his jurisdiction of any functions of the Chairman under this paragraph.

(f) Conflict of interest

No Commissioner or employee of the Commission shall accept employment or compensation from any person, exchange, or clearinghouse subject to regulation by the Commission under this chapter during his term of office, nor shall he participate, directly or indirectly, in any contract market operations or transactions of a character subject to regulation by the Commission.

(g) Liaison with Department of Agriculture

The Commission shall, in cooperation with the Secretary of Agriculture, establish a separate office within the Department of Agriculture to be staffed with employees of the Commission for the purpose of maintaining a liaison between the Commission and the Department of Agriculture. The Secretary shall take such steps as may be necessary to enable the Commission to obtain information and utilize such services and facilities of the Department of Agriculture as may be necessary in order to maintain effectively such liaison. In addition, the Secretary shall appoint a liaison officer, who shall be an employee of the Office of the Secretary, for the purpose of maintaining a liaison between the Department of Agriculture and the Commission. The Commission shall furnish such liaison officer appropriate office space within the offices of the Commission and shall allow such liaison officer to attend and observe all deliberations and proceedings of the Commission.

(h) Transmittal of budget requests and legislative recommendations to Congressional Committees

(1) Whenever the Commission submits any budget estimate or request to the President or the Office of Management and Budget, it shall concurrently transmit copies of that estimate or request to the House and Senate Appropriations Committees and the House Committee on Agriculture and the Senate Committee on Agriculture and Forestry.

(2) Whenever the Commission transmits any legislative recommendations, or testimony, or comments on legislation to the President or the Office of Management and Budget, it shall concurrently transmit copies thereof to the House Committee on Agriculture and the Senate Committee on Agriculture, Nutrition, and Forestry. No officer or agency of the United States shall have any authority to require the Commission to submit its legislative recommendations, or testimony, or comments on legislation to any officer or agency of the United States for approval, comments, or review, prior to the submission of such recommendations, testimony, or comments to the Congress. In instances in which the Commission voluntarily seeks to obtain the comments or review of any officer or agency of the United States, the Commission shall include a description of such actions in its legislative recommendations, testimony, or comments on legislation which it transmits to the Congress.

(i) Seal

The Commission shall have an official seal, which shall be judicially noticed.

(j) Rules and regulations

The Commission is authorized to promulgate such rules and regulations as it deems necessary to govern the operating procedures and conduct of the business of the Commission.

(Sept. 21, 1922, ch. 369, § 2(a)(2)-(11), as added Oct. 23, 1974, Pub. L. 93-463, title I, § 101(a)(3), 88 Stat. 1389, and amended S. Res. 4, Feb. 4, 1977.)

CODIFICATION

Section consists of pars. (2) to (11) of section 2(a) of the Commodity Exchange Act. For purposes of codification the numbered pars. (2) to (11) have been translated as pars. (a) to (j), respectively, of this section, with subpars. (A) to (F) of par. (6) and subpars. (A) and (B) of par. (9) in the original being translated as subpars. (1) to (6) of par. (e) and subpars. (1) and (2) of par. (h) of this section, respectively.

Par. (1) of section 2(a) of the Commodity Exchange Act is classified to sections 2 and 4 of this title.

Subsec. (b) of section 2 of the Commodity Exchange Act is classified to section 3 of this title.

CHANGE OF NAME

The Committee on Agriculture and Forestry of the Senate was abolished and replaced by the Committee on Agriculture, Nutrition, and Forestry of the Senate, effective Feb. 11, 1977. See Rule XXV of the Standing Rules of the Senate, as amended by Senate Resolution 4 (popularly cited as the "Committee System Reorganization Amendments of 1977"), approved Feb. 4, 1977.

EFFECTIVE DATE

For effective date of section, see section 418 of Pub. L. 93-463, set out as a note under section 2 of this title.

SEPARABILITY OF PROVISIONS

Section 413 of Pub. L. 93-463 provided that: "If any provision of this Act [see Short Title note under section 1 of this title] or the application thereof to any person or circumstances is held invalid, the validity of the remainder of the Act and the application of such provisions to other persons or circumstances shall not be affected thereby."

NON-ABATEMENT OF PENDING PROCEEDINGS

Section 412 of Pub. L. 93-463 provided that: "Pending proceedings under existing law shall not be abated by reason of any provision of this Act [see Short Title note under section 1 of this title] but shall be disposed of pursuant to the applicable provisions of the Commodity Exchange Act, as amended [this chapter], in effect prior to the effective date of this Act [see Effective Date of 1974 Amendment note under section 2 of this title]."

PROVISIONAL DESIGNATION OF CONTRACT MARKETS; PROVISIONAL REGISTRATION OF FUTURES COMMISSION MERCHANTS, FLOOR BROKERS, ASSOCIATED PERSONS, COMMODITY TRADING ADVISORS, AND COMMODITY POOL OPERATORS; EXTENSION OF EFFECTIVE DATES

Pub. L. 94-16, § 1, Apr. 16, 1975, 89 Stat. 77, provided that the Commodity Futures Trading Commission would, in its discretion, and without prior notice of hearings, grant provisional designation as a contract market to any boards of trade for any commodities traded thereon for such period not in excess of ninety days from the effective date of the Commodity Futures Trading Commission Act of 1974 [see Effective Date of 1974 Amendment note under section 2 of this title] and under such terms and conditions as it prescribed, and that upon the expiration of any provisional designation of a board of trade as a contract

market, such board of trade should not be designated as a contract market except as provided in section 6 of the Commodity Exchange Act, as amended [section 8 et seq. of this title]; would grant provisional registration as a futures commission merchant, floor broker, associated person, commodity trading adviser, and commodity pool operator to any person for such period not in excess of ninety days from the effective date of the Commodity Futures Trading Commission Act of 1974 (Public Law 93-463) [see Effective Date of 1974 Amendment note under section 2 of this title] and under such terms and conditions as it prescribed; and would defer for such period not in excess of ninety days from the effective date of the Act [see Effective Date of 1974 Amendment note under section 2 of this title], the effective dates of sections 204, 205, 210, and 407 of the Commodity Futures Trading Commission Act of 1974 (Public Law 93-463) [enacting sections 6k, 6*l*, 6m, 6n, 6*o*, and 7a(12) and amending sections 7a(8), 9, and 12a(1) of this title].

REPORT AND RECOMMENDATIONS TO CONGRESS RESPECTING NEED FOR INSURANCE COVERING INSOLVENCY OR FAILURE OF FUTURES COMMISSION MERCHANTS

Section 417 of Pub. L. 93-463 required that the Commodity Futures Trading Commission submit to the Congress, not later than June 30, 1976, a report respecting the need for legislation insuring owners of commodity futures accounts and persons handling or clearing trades in such accounts against loss by reason of the insolvency or financial failure of a futures commission merchant carrying such accounts and that the report contain the recommendations of the Commission concerning the form and nature of any such legislation.

TRANSFER OF OPERATIONS TO COMMODITY FUTURES TRADING COMMISSION

Section 411 of Pub. L. 93-463 provided that all operations of the Commodity Exchange Commission and of the Secretary of Agriculture under the Commodity Exchange Act [this chapter], including all pending administrative proceedings, be transferred to the Commodity Futures Trading Commission as of the effective date of Pub. L. 93-463 [see Effective Date of 1974 Amendment note under section 2 of this title] and continue to completion and that all rules, regulations, and orders theretofore issued by the Commodity Exchange Commission and by The Secretary of Agriculture under the Commodity Exchange Act [this chapter] to the extent not inconsistent with the provisions of Pub. L. 93-463 [see Short Title note under section 1 of this title] continue in full force and effect unless and until terminated, modified, or suspended by the Commodity Futures Trading Commission.

TRANSFER OF PERSONNEL, PROPERTY, RECORDS, AND FUNDS TO COMMODITY FUTURES TRADING COMMISSION

Section 104 of Pub. L. 93-463 authorized the transfer of all of the personnel of the Commodity Exchange Authority, property, records, and unexpended balance of appropriations, allocations, and other funds employed, used, held, available, or to be made available in connection with administration of the Commodity Exchange Act [this chapter] to the Commodity Futures Trading Commission upon the effective date of Pub. L. 93-463 [see Effective Date of 1974 Amendment note under section 2 of this title].

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2 of this title.

§ 5. Resolution declaring dangerous tendency of dealings in commodity futures

Transactions in commodity involving the sale thereof for future delivery as commonly conducted on boards of trade and known as "futures" are affected with a national public interest; such transactions are carried on in large volume by the public generally and by persons engaged in the business of buying and selling commodity and the products and byproducts thereof in interstate commerce; the prices involved in such transactions are generally quoted and disseminated throughout the United States and in foreign countries as a basis for determining the prices to the producer and the consumer of commodity and the products and byproducts thereof and to facilitate the movements thereof in interstate commerce; such transactions are utilized by shippers, dealers, millers, and others engaged in handling commodity and the products and byproducts thereof in interstate commerce as a means of hedging themselves against possible loss through fluctuations in price; the transactions and prices of commodity on such boards of trade are susceptible to speculation, manipulation, and control, and sudden or unreasonable fluctuations in the prices thereof frequently occur as a result of such speculation, manipulation, or control, which are detrimental to the producer or the consumer and the persons handling commodity and products and byproducts thereof in interstate commerce, and such fluctuations in prices are an obstruction to and a burden upon interstate commerce in commodity and the products and byproducts thereof and render regulation imperative for the protection of such commerce and the national public interest therein.

(Sept. 21, 1922, ch. 369, § 3, 42 Stat. 999; June 15, 1936, ch. 545, § 2, 49 Stat. 1491.)

AMENDMENTS

1936—Act June 15, 1936, substituted "commodity" for "grain" throughout.

EFFECTIVE DATE OF 1936 AMENDMENT

Amendment effective 90 days after June 15, 1936, see note under section 1 of this title.

§ 6. Prohibition against dealings in commodity futures; exceptions

It shall be unlawful for any person to deliver for transmission through the mails or in interstate commerce by telegraph, telephone, wireless, or other means of communication any offer to make or execute, or any confirmation of the execution of, or any quotation or report of the price of, any contract of sale of commodity for future delivery on or subject to the rules of any board of trade in the United States, or for any person to make or execute such contract of sale, which is or may be used for (a) hedging any transaction in interstate commerce in commodity or the products or by-products thereof, or (b) determining the price basis of any such transaction in interstate commerce, or (c) delivering commodity sold, shipped, or received in interstate commerce for the fulfillment thereof, except, in any of the foregoing cases, where such contract is made by or through a member of a board of trade which has been designated by the Commission as a "contract market," as hereinafter provided in this chapter, and if such contract is evidenced by a record in writing which shows the date, the parties to such contract and their addresses, the property covered and its price, and the terms of delivery: *Provided*, That each board

member shall keep such record for a period of three years from the date thereof, or for a longer period if the Commission shall so direct, which record shall at all times be open to the inspection of any representative of the Commission or the United States Department of Justice.

(Sept. 21, 1922, ch. 369, § 4, 42 Stat. 999; June 15, 1936, ch. 545, §§ 2, 4, 49 Stat. 1491, 1492; Oct. 23, 1974, Pub. L. 93-463, title I, § 103(a), (f), 88 Stat. 1392.)

AMENDMENTS

1974—Pub. L. 93-463 substituted "Commission" for "Secretary of Agriculture" and "United States Department of Agriculture".

1936—Act June 15, 1936, § 2, substituted the word "commodity" for "grain" throughout.

Act June 15, 1936, § 4, struck out former par. (a) and combined former par. (b) with first paragraph.

EFFECTIVE DATE OF 1974 AMENDMENT

For effective date of amendment by Pub. L. 93-463 see section 418 of Pub. L. 93-463, set out as a note under section 2 of this title.

EFFECTIVE DATE OF 1936 AMENDMENT

Amendment effective 90 days after June 15, 1936, see note under section 1 of this title.

CROSS REFERENCES

Punishment for violating the provisions of this section and for failure to evidence any contract mentioned in this section by a record in writing, see section 13 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 13 of this title.

§ 6a. Excessive speculation as burden on interstate commerce; trading or position limits; control; hedging transactions; application of section

(1) Excessive speculation in any commodity under contracts of sale of such commodity for future delivery made on or subject to the rules of contract markets causing sudden or unreasonable fluctuations or unwarranted changes in the price of such commodity, is an undue and unnecessary burden on interstate commerce in such commodity. For the purpose of diminishing, eliminating, or preventing such burden, the commission shall, from time to time, after due notice and opportunity for hearing, by order, proclaim and fix such limits on the amounts of trading which may be done or positions which may be held by any person under contracts of sale of such commodity for future delivery on or subject to the rules of any contract market as the commission finds are necessary to diminish, eliminate, or prevent such burden. In determining whether any person has exceeded such limits, the positions held and trading done by any persons directly or indirectly controlled by such person shall be included with the positions held and trading done by such person; and further, such limits upon positions and trading shall apply to positions held by, and trading done by, two or more persons acting pursuant to an expressed or implied agreement or understanding, the same as if the positions were held by, or the trading were done by, a single person. Nothing in this section shall be construed to prohibit the commission from fixing different trading or position limits for different commodities, markets, futures, or delivery months, or different trading limits for buying and selling operations, or different limits for the purposes of subparagraphs (A) and (B) of paragraph (2) of this section, or from exempting transactions normally known to the trade as "spreads" or "straddles" or "arbitrage" or from fixing limits applying to such transactions or positions different from limits fixed for other transactions or positions. The word "arbitrage" in domestic markets shall be defined to mean the same as "spread" or "straddle". The Commission is authorized to define the term "international arbitrage".

(2) The commission shall, in such order, fix a reasonable time (not to exceed ten days) after the order's promulgation; after which, and until such order is suspended, modified, or revoked, it shall be unlawful for any person—

(A) directly or indirectly to buy or sell, or agree to buy or sell, under contracts of sale of such commodity for future delivery on or subject to the rules of the contract market or markets to which the order applies, any amount of such commodity during any one business day in excess of any trading limit fixed for one business day by the commission in such order for or with respect to such commodity; or

(B) directly or indirectly to hold or control a net long or a net short position in any commodity for future delivery on or subject to the rules of any contract market in excess of any position limit fixed by the commission for or with respect to such commodity: *Provided,* That such position limit shall not apply to a position acquired in good faith prior to the effective date of such order.

(3) No order issued under paragraph (1) of this section shall apply to transactions or positions which are shown to be bona fide hedging transactions or positions as such terms shall be defined by the Commission within one hundred and eighty days after the effective date of the Commodity Futures Trading Commission Act of 1974 by order consistent with the purposes of this chapter.

(4) This section shall apply to a person that is registered as a futures commission merchant or as floor broker under authority of this chapter only to the extent that transactions made by such person are made on behalf of or for the account or benefit of such person. This section shall not apply to transactions made by, or on behalf of, or at the direction of, the United States, or a duly authorized agency thereof.

(Sept. 21, 1922, ch. 369, § 4a, as added June 15, 1936, ch. 545, § 5, 49 Stat. 1492, and amended July 24, 1956, ch. 690, § 1, 70 Stat. 630; Feb. 19, 1968, Pub. L. 90-258, §§ 2-4, 82 Stat. 26, 27; Oct. 23, 1974, Pub. L. 93-463, title IV, §§ 403, 404, 88 Stat. 1413; Apr. 16, 1975, Pub. L. 94-16, § 4, 89 Stat. 78.)

REFERENCES IN TEXT

For provisions setting the effective date of the Commodity Futures Trading Commission Act of 1974, referred to in par. (3), as the 180th day after Oct. 23, 1974, see section 418 of Pub. L. 93-463, set out as a note under section 2 of this title.

AMENDMENTS

1975—Par. (3). Pub. L. 94-16 substituted "one hundred and eighty days" for "ninety days".

1974—Par. (1). Pub. L. 93-463, § 403, inserted "or 'arbitrage' " following "or 'straddles' ", added definition or "arbitrage", and authorized the Commission to define "international arbitrage".

Par. (3). Pub. L. 93-463, § 404, directed the Commission to define "bona fide hedging transactions or positions" within 90 days after the effective date of the Commodity Futures Trading Commission Act of 1974 and struck out provisions which had spelled out the factors to be taken into account in determining whether a hedging transaction or position was a bona fide transaction or position.

1968—Par. (1). Pub. L. 90-258, § 2, substituted in second sentence "amounts of trading" for "amount of trading", inserted "which may be done or positions which may be held by any person" preceding "under contracts of sale", and deleted "which may be done" following "rules of any contract market", inserted third sentence providing for inclusion of controlled positions and trading in determining whether prescribed position or trading limits have been exceeded and for application of such position and trading limits to activities of two or more persons acting pursuant to agreement or understanding as if the activities of a single person, and included in fourth, formerly third, sentence references to position limits and to positions, substituted "normally" for "commonly", and deleted "trading" from the phrases "from fixing trading limits" and "from trading limits".

Par. (2)(B). Pub. L. 90-258, § 3, substituted prohibition against holding of net long or net short positions in excess of any position limit fixed by the Commission for former prohibition of purchases or sales which result in net long or net short positions in excess of trading limits fixed by the Commission and provided that the position limit shall not apply to a position acquired in good faith prior to the effective date of the order.

Par. (3). Pub. L. 90-258, § 4, included references to positions, made hedging applicable to short and long positions, substituted "contract market" for "board of trade", and required the activities to be those of the same person to constitute hedging.

1956—Par. (3). Act July 24, 1956 added subpar. (C).

EFFECTIVE DATE OF 1974 AMENDMENT

Section 404 of Pub. L. 93-463 directed in part that the provisions of section 404 of Pub. L. 93-463 calling for the deletion of that part of par. (3) of this section which enumerated the factors to be taken into consideration in determining whether a hedging transaction or position was a bona fide transaction or position, was effective immediately upon the enactment of Pub. L. 93-463. Pub. L. 93-463 was approved on Oct. 23, 1974.

Amendment of par. (1) and that part of par. (3) of this section by sections 403 and 404 of Pub. L. 93-463 directing the Commission to define "bona fide hedging transactions or positions" effective so as to allow implementation of all changes effected by this amendment to be carried out after Oct. 23, 1974, and before as well as after the 180th day thereafter, see section 418 of Pub. L. 93-463, set out as a note under section 2 of this title.

EFFECTIVE DATE OF 1968 AMENDMENT

Amendment by Pub. L. 90-258 effective 120 days after Feb. 19, 1968, see section 28 of Pub. L. 90-258, set out as a note under section 2 of this title.

EFFECTIVE DATE OF 1956 AMENDMENT

Section 2 of act July 24, 1956, provided that: "This Act [adding par. (3)(C)] shall take effect sixty days after the date of its enactment [July 24, 1956]."

EFFECTIVE DATE

See note under section 1 of this title.

REGULATIONS DEFINING BONA FIDE HEDGING TRANSACTIONS AND POSITIONS

Section 404 of Pub. L. 93-463 provided in part: "That notwithstanding any other provision of law, the Secretary of Agriculture, immediately upon the enactment of the Commodity Futures Trading Commission Act of 1974 [which was approved on Oct. 23, 1974], is authorized and directed to promulgate regulations defining bona fide hedging transactions and positions: *And provided further,* That until the Secretary issues such regulations defining bona fide hedging transactions and positions and such regulations are in full force and effect, such terms shall continue to be defined as set forth in the Commodity Exchange Act [par. (3) of this section] prior to its amendment by the Commodity Futures Trading Commission Act of 1974 [Pub. L. 93-463]."

CROSS REFERENCES

Power of Congress to regulate interstate commerce, see Const. Art. 1, § 8, cl. 3.

Punishment for violating the provisions of this section, see section 13 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 13 of this title.

§ 6b. Contracts designed to defraud or mislead; bucketing orders; buying and selling orders for cotton

It shall be unlawful (1) for any member of a contract market, or for any correspondent, agent, or employee of any member, in or in connection with any order to make, or the making of, any contract of sale of any commodity in interstate commerce, made, or to be made, on or subject to the rules of any contract market, for or on behalf of any other person, or (2) for any person, in or in connection with any order to make, or the making of, any contract of sale of any commodity for future delivery made, or to be made, on or subject to the rules of any contract market, for or on behalf of any other person if such contract for future delivery is or may be used for (a) hedging any transaction in interstate commerce in such commodity or the products or byproducts thereof, or (b) determining the price basis of any transaction in interstate commerce in such commodity, or (c) delivering any such commodity sold, shipped, or received in interstate commerce for the fulfillment thereof—

(A) to cheat or defraud or attempt to cheat or defraud such other person;

(B) willfully to make or cause to be made to such other person any false report or statement thereof, or willfully to enter or cause to be entered for such person any false record thereof;

(C) willfully to deceive or attempt to deceive such other person by any means whatsoever in regard to any such order or contract or the disposition or execution of any such order or contract, or in regard to any act of agency performed with respect to such order or contract for such person; or

(D) to bucket such order, or to fill such order by offset against the order or orders of any other person, or willfully and knowingly and without the prior consent of such person to become the buyer in respect to any selling order of such person, or become the seller in respect to any buying order of such person.

Nothing in this section or in any other section of this chapter shall be construed to pre-

vent a futures commission merchant or floor broker who shall have in hand, simultaneously, buying and selling orders at the market for different principals for a like quantity of a commodity for future delivery in the same month executing such buying and selling orders at the market price: *Provided,* That any such execution shall take place on the floor of the exchange where such orders are to be executed at public outcry across the ring and shall be duly reported, recorded, and cleared in the same manner as other orders executed on such exchange: *And provided further,* That such transactions shall be made in accordance with such rules and regulations as the Commission may promulgate regarding the manner of the execution of such transactions.

(Sept. 21, 1922, ch. 369, § 4b, as added June 15, 1936, ch. 545, § 5, 49 Stat. 1493, and amended Feb. 19, 1968, Pub. L. 90-258, § 5, 82 Stat. 27; Oct. 23, 1974, Pub. L. 93-463, title IV, § 405, 88 Stat. 1413.)

AMENDMENTS

1974—Pub. L. 93-463 substituted "a commodity" for "cotton" in the provisions following subpar. (D) and added requirement that execution of buying and selling orders for commodities held simultaneously by the same merchant or broker be carried out in accordance with such rules and regulations as the Commission may promulgate regarding the manner of the execution of such transactions.

1968—Pub. L. 90-258 relocated cl. (1) designation in the first par. to follows "unlawful" rather than to precede "any contract of sale", provided in such cl. (1) for orders to make or making of contracts of sale "made, or to be made on or subject to the rules of any contract market, for or on behalf of any other person" and in cl. (2) "for any person, in or in connection with any order to make, or the making of," any contract of sale of any commodity for future delivery for or on behalf of any "other" person; and inserted "other" preceding "person" in subpar. (A) and in subpars. (B) and (C) where appearing for first time, respectively.

EFFECTIVE DATE OF 1974 AMENDMENT

For effective date of amendment by Pub. L. 93-463, see section 418 of Pub. L. 93-463, set out as a note under section 2 of this title.

EFFECTIVE DATE OF 1968 AMENDMENT

Amendment by Pub. L. 90-258 effective 120 days after Feb. 19, 1968, see section 28 of Pub. L. 90-258, set out as a note under section 2 of this title.

EFFECTIVE DATE

See note under section 1 of this title.

CROSS REFERENCES

Construction of section not to impair any State law applicable to any transaction enumerated or described in this section, see section 6c of this title.

Punishment for violating the provisions of this section, see section 13 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 13 of this title.

§ 6c. Wash sales; cross trades; fictitious sales; privileges; offers; puts; calls; guaranties

(a) It shall be unlawful for any person to offer to enter into, enter into, or confirm the execution of, any transaction involving any commodity, which is or may be used for (1) hedging any transaction in interstate commerce in such commodity or the products or byproducts thereof, or (2) determining the price basis of any such transaction in interstate commerce in such commodity, or (3) delivering any such commodity sold, shipped, or received in interstate commerce for the fulfillment thereof—

(A) if such transaction is, is of the character of, or is commonly known to the trade as, a "wash sale," "cross trade," or "accommodation trade," or is a fictitious sale;

(B) if such transaction involves any commodity specifically set forth in section 2 of this title, prior to the enactment of the Commodity Futures Trading Commission Act of 1974, and if such transaction is of the character of, or is commonly known to the trade as, "option", "privilege", "indemnity", "bid", "offer", "put", "call", "advance guaranty", or "decline guaranty", or

(C) if such transaction is used to cause any price to be reported, registered, or recorded which is not a true and bona fide price.

Nothing in this section shall be construed to prevent the exchange of futures in connection with cash commodity transactions or of futures for cash commodities, or of transfer trades or office trades if made in accordance with board of trade rules applying to such transactions and such rules shall not have been disapproved by the Commission.

(b) No person shall offer to enter into, enter into, or confirm the execution of, any transaction subject to the provisions of paragraph (a) of this section involving any commodity regulated under this chapter, but not specifically set forth in section 2 of this title, prior to the enactment of the Commodity Futures Trading Commission Act of 1974, which is of the character of, or is commonly known to the trade as, an "option", "privilege", "indemnity", "bid", "offer", "put", "call", "advance guaranty", or "decline guaranty", contrary to any rule, regulation, or order of the Commission prohibiting any such transaction or allowing any such transaction under such terms and conditions as the Commission shall prescribe within one year after the effective date of the Commodity Futures Trading Commission Act of 1974 unless the Commission determines and notifies the Senate Committee on Agriculture, Nutrition, and Forestry and the House Committee on Agriculture that it is unable to prescribe such terms and conditions within such period of time: *Provided,* That any such order, rule, or regulation may be made only after notice and opportunity for hearing: *And provided further,* That the Commission may set different terms and conditions for different markets.

(Sept. 21, 1922, ch. 369, § 4c, as added June 15, 1936, ch. 545, § 5, 49 Stat. 1494, and amended Oct. 23, 1974, Pub. L. 93-463, title I, § 103(a), title IV, § 402, 88 Stat. 1392, 1412; S.Res. 4, Feb. 4, 1977.)

REFERENCES IN TEXT

The Commodity Futures Trading Commission Act of 1974, referred to in subsecs. (a)(B) and (b), is Pub. L. 93-463. For classification of this Act to the Code, see Short Title note set out under section 1 of this title and Table volume.

For provisions setting the effective date of the Commodity Futures Trading Commission Act of 1974, re-

ferred to in par. (b), as the 180th day after Oct. 23, 1974, see section 418 of Pub. L. 93-463, set out as a note under section 2 of this title.

AMENDMENTS

1974—Par. (a). Pub. L. 93-463, §§ 103(a), 402(a), (b), (d), designated existing provisions as par. (a), in subpar. (B) of par. (a) as so designated inserted "if such transaction involves any commodity specifically set forth in section 2 of this title, prior to the enactment of the Commodity Futures Trading Commission Act of 1974, and" and "option", and in the provisions following subpar. (C), struck out provisions prohibiting a construction of this section or section 6b of this title which would impair any State law applicable to any transaction enumerated or described in this section or section 6b of this title and substituted "Commission" for "Secretary of Agriculture".

Par. (b). Pub. L. 93-463, § 402(c), added par. (b).

CHANGE OF NAME

The Committee on Agriculture and Forestry of the Senate was abolished and replaced by the Committee on Agriculture, Nutrition, and Forestry of the Senate, effective Feb. 11, 1977. See Rule XXV of the Standing Rules of the Senate, as amended by Senate Resolution 4 (popularly cited as the "Committee System Reorganization Amendments of 1977"), approved Feb. 4, 1977.

EFFECTIVE DATE OF 1974 AMENDMENT

For effective date of amendment by Pub. L. 93-463, see section 418 of Pub. L. 93-463, set out as a note under section 2 of this title.

EFFECTIVE DATE

See note under section 1 of this title.

CROSS REFERENCES

Punishment for violating the provisions of this section, see section 13 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 13 of this title.

§ 6d. Futures commission merchants, dealing by unregistered merchants prohibited; moneys and securities of customers, care and use

It shall be unlawful for any person to engage as futures commission merchant in soliciting orders or accepting orders for the purchase or sale of any commodity for future delivery, or involving any contracts of sale of any commodity for future delivery, on or subject to the rules of any contract market unless—

(1) such person shall have registered, under this chapter, with the Commission as such futures commission merchant and such registration shall not have expired nor been suspended nor revoked; and

(2) such person shall, whether a member or nonmember of a contract market, treat and deal with all money, securities, and property received by such person to margin, guarantee, or secure the trades or contracts of any customer of such person, or accruing to such customer as the result of such trades or contracts, as belonging to such customer. Such money, securities, and property shall be separately accounted for and shall not be commingled with the funds of such commission merchant or be used to margin or guarantee the trades or contracts, or to secure or extend the credit, of any customer or person other than the one for whom the same are held: *Provided, however,* That such money, securities, and property of the customers of such futures commission merchant may, for convenience, be commingled and deposited in the same account or accounts with any bank or trust company or with the clearing house organization of such contract market, and that such share thereof as in the normal course of business shall be necessary to margin, guarantee, secure, transfer, adjust, or settle the contracts or trades of such customers, or resulting market positions, with the clearing-house organization of such contract market or with any member of such contract market, may be withdrawn and applied to such purposes, including the payment of commissions, brokerage, interest, taxes, storage, and other charges, lawfully accruing in connection with such contracts and trades: *Provided further,* That such money may be invested in obligations of the United States, in general obligations of any State or of any political subdivision thereof, and in obligations fully guaranteed as to principal and interest by the United States, such investments to be made in accordance with such rules and regulations and subject to such conditions as the Commission may prescribe.

It shall be unlawful for any person, including but not limited to any clearing agency of a contract market and any depository, that has received any money, securities, or property for deposit in a separate account as provided in paragraph (2) of this section, to hold, dispose of, or use any such money, securities, or property as belonging to the depositing futures commission merchant or any person other than the customers of such futures commission merchant.

(Sept. 21, 1922, ch. 369, § 4d, as added June 15, 1936, ch. 545, § 5, 49 Stat. 1494, and amended Feb. 19, 1968, Pub. L. 90-258, § 6, 82 Stat. 27; Oct. 23, 1974, Pub. L. 93-463, title I, § 103(a), 88 Stat. 1392.)

AMENDMENTS

1974—Pub. L. 93-463 substituted "Commission" for "Secretary of Agriculture" in pars. (1) and (2).

1968—Pub. L. 90-258 deleted from second proviso of first par. authorization for investment of customer funds in investment securities of the kind national banking associations may buy or in loans secured by negotiable warehouse receipts conveying or securing title to readily marketable commodities to the extent of the current loan value of such receipts and added second par, making it unlawful for any person, including a clearing agency of a contract market or any depository, to treat customer funds as belonging to any person other than the customer, respectively.

EFFECTIVE DATE OF 1974 AMENDMENT

For effective date of amendment by Pub. L. 93-463, see section 418 of Pub. L. 93-463, set out as a note under section 2 of this title.

EFFECTIVE DATE OF 1968 AMENDMENT

Amendment by Pub. L. 90-258 effective 120 days after Feb. 19, 1968, see section 28 of Pub. L. 90-258, set out as a note under section 2 of this title.

EFFECTIVE DATE

See note under section 1 of this title.

CROSS REFERENCES

Punishment for violating the provisions of this section, see section 13 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 13, 18 of this title.

§ 6e. Floor brokers; dealings by unregistered broker prohibited

It shall be unlawful for any person to act as floor broker in executing any orders for the purchase or sale of any commodity for future delivery, or involving any contracts of sale of any commodity for future delivery, on or subject to the rules of any contract market unless such person shall have registered, under this chapter, with the Commission as such floor broker and such registration shall not have expired nor been suspended nor revoked.

(Sept. 21, 1922, ch. 369, § 4e, as added June 15, 1936, ch. 545, § 5, 49 Stat. 1495, and amended Oct. 23, 1974, Pub. L. 93-463, title I, § 103(a), 88 Stat. 1392.)

AMENDMENTS

1974—Pub. L. 93-463 substituted "Commission" for "Secretary of Agriculture".

EFFECTIVE DATE OF 1974 AMENDMENT

For effective date of amendment by Pub. L. 93-463, see section 418 of Pub. L. 93-463, set out as a note under section 2 of this title.

EFFECTIVE DATE

See note under section 1 of this title.

CROSS REFERENCES

Punishment for violating the provisions of this section, see section 13 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 13, 18 of this title.

§ 6f. Registration of commission merchants and brokers; financial requirements of futures commission merchants

(1) Any person desiring to register as futures commission merchant or as floor broker under this section shall be registered upon application to the Commission, which application shall be made in form and manner to be prescribed by the Commission, giving such information and facts as the Commission may deem necessary concerning the business in which the applicant is or will be engaged, including, in the case of applications of futures commission merchants, the names and addresses of the managers of all branch offices and of all correspondents and agents engaged in soliciting or accepting on behalf of such applicant any orders for the purchase or sale of any commodity for future delivery on or subject to the rules of any board of trade, and including also the names of its officers and partners, if partnership, and of its officers, directors, and stockholders, as the Commission may direct, if a corporation. Such person, when registered under this section, shall likewise continue to report and furnish to the Commission the above-mentioned information and such other information pertaining to his business as the Commission may require. All registrations shall expire on the 31st day of December of the year for which issued, and shall be renewed upon application therefor unless the registration has been suspended (and the period of such suspension has not expired) or revoked after notice and hearing as prescribed in this chapter.

(2) Notwithstanding any other provisions of this chapter, no person desiring to register as futures commission merchant shall be so registered unless he meets such minimum financial requirements as the Commission may by regulation prescribe as necessary to insure his meeting his obligation as a registrant, and each person so registered shall at all times continue to meet such prescribed minimum financial requirements: *Provided,* That such minimum financial requirements will be considered met if the applicant for registration or registrant is a member of a contract market and conforms to minimum financial standards and related reporting requirements set by such contract market in its bylaws, rules, regulations, or resolutions and approved by the Commission as adequate to effectuate the purposes of this paragraph (2).

(Sept. 21, 1922, ch. 369, § 4f, as added June 15, 1936, ch. 545, § 5, 49 Stat. 1495, and amended Feb. 19, 1968, Pub. L. 90-258, § 7, 82 Stat. 28; Oct. 23, 1974, Pub. L. 93-463, title I, § 103(a), 88 Stat. 1392.)

AMENDMENTS

1974—Pub. L. 93-463 substituted "Commission" for "Secretary of Agriculture".

1968—Par. (1), Pub. L. 90-258, § 7(a), substituted "this chapter" for "section 6g of this title".

Par. (2). Pub. L. 90-258, § 7(b), substituted provisions that prescribed financial requirements for registration as futures commission merchant be met and continued at all times and that such requirements will be considered met by membership in a contract market and compliance with its minimum financial standards and related reporting requirements for former provisions for display of futures commission merchants' registration certificates.

EFFECTIVE DATE OF 1974 AMENDMENT

For effective date of amendment by Pub. L. 93-463, see section 418 of Pub. L. 93-463, set out as a note under section 2 of this title.

EFFECTIVE DATE OF 1968 AMENDMENT

Amendment by Pub. L. 90-258 effective 120 days after Feb. 19, 1968, see section 28 of Pub. L. 90-258, set out as a note under section 2 of this title.

EFFECTIVE DATE

See note under section 1 of this title.

CROSS REFERENCES

Punishment for violating the provisions of this section, see section 13 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 12a of this title.

§ 6g. Reporting and recordkeeping

(1) Every person registered hereunder as futures commission merchant or floor broker shall make such reports as are required by the Commission regarding the transactions and positions of such person, and the transactions and positions of the customer thereof, in commodities for future delivery on any board of trade in the United States or elsewhere; shall keep books and records pertaining to such transactions and positions in such form and manner

and for such period as may be required by the Commission; and shall keep such books and records open to inspection by any representative of the Commission or the United States Department of Justice.

(2) Every clearinghouse and contract market shall maintain daily trading records. The daily trading records shall include such information as the Commission shall prescribe by rule.

(3) Brokers and futures commission merchants shall maintain daily trading records for each customer in such manner and form as to be identifiable with the trades referred to in paragraph (2) of this section.

(4) Daily trading records shall be maintained in a form suitable to the Commission for such period as may be required by the Commission. Reports shall be made from the records maintained at such times and at such places and in such form as the Commission may prescribe by rule, order, or regulation in order to protect the public interest and the interest of persons trading in commodity futures.

(5) Before the beginning of trading each day, the exchange shall, insofar as is practicable and under terms and conditions specified by the Commission, make public the volume of trading on each type of contract for the previous day and such other information as the Commission deems necessary in the public interest and prescribes by rule, order, or regulation.

(6) Nothing contained in this section shall be construed to prohibit the Commission from making separate determinations for different clearinghouses, contract markets, and exchanges when such determinations are warranted in the judgment of the Commission.

(Sept. 21, 1922, ch. 369, § 4g, as added June 15, 1936, ch. 545, § 5, 49 Stat. 1496, and amended Feb. 19, 1968, Pub. L. 90-258, § 8, 82 Stat. 28; Oct. 23, 1974, Pub. L. 93-463, title I, § 103(a), (f), title IV, § 415, 88 Stat. 1392, 1415.)

AMENDMENTS

1974—Par. (1). Pub. L. 93-463, §§ 103(a), (f), 415, designated existing provisions as par. (1) and in par. (1) as so designated substituted "Commission" for "Secretary of Agriculture" and "United States Department of Agriculture".

Pars. (2) to (6). Pub. L. 93-463, § 415, added pars. (2) to (6).

1968—Pub. L. 90-258 rephrased existing provisions to express the reporting and recordkeeping requirements as a positive obligation of futures commission merchants and floor brokers, rather than as a ground for revoking or suspending registration and struck out provisions for revocation or suspension of registration, now covered in section 9 of this title.

EFFECTIVE DATE OF 1974 AMENDMENT

For effective date of amendment by Pub. L. 93-463 see section 418 of Pub. L. 93-463, set out as a note under section 2 of this title.

EFFECTIVE DATE OF 1968 AMENDMENT

Amendment by Pub. L. 90-258 effective 120 days after Feb. 19, 1968, see section 28 of Pub. L. 90-258, set out as a note under section 2 of this title.

EFFECTIVE DATE

See note under section 1 of this title.

§ 6h. Dealing other than through member of contract market

It shall be unlawful for any person—

(1) to conduct any office or place of business anywhere in the United States or its territories for the purpose of soliciting or accepting any orders for the purchase or sale of any commodity for future delivery, or for making or offering to make any contracts for the purchase or sale of any commodity for future delivery, or for conducting any dealings in commodities for future delivery, that are or may be used for

(A) hedging any transaction in interstate commerce in such commodity or the products or byproducts thereof, or

(B) determining the price basis of any such transaction in interstate commerce, or

(C) delivering any such commodity sold, shipped, or received in interstate commerce for the fulfillment thereof,

if such orders, contracts, or dealings are executed or consummated otherwise than by or through a member of a contract market; or

(2) falsely to represent such person to be a member of a contract market, or the representative or agent of such member, or to be a futures commission merchant registered under this chapter, or the agent of such registered futures commission merchant, in soliciting or handling any order or contract for the purchase or sale of any commodity in interstate commerce or for future delivery, or falsely to represent in connection with the handling of any such order or contract that the same is to be or has been executed on, or by or through any member of, any contract market.

(Sept. 21, 1922, ch. 369, § 4h, as added June 15, 1936, ch. 545, § 5, 49 Stat. 1496.)

EFFECTIVE DATE

See note under section 1 of this title.

CROSS REFERENCES

Punishment for violating the provisions of this section, see section 13 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 13 of this title.

§ 6i. Reports of deals equal to or in excess of trading limits; books and records; cash and controlled transactions

It shall be unlawful for any person to make any contract for the purchase or sale of any commodity for future delivery on or subject to the rules of any contract market unless such person shall report or cause to be reported to the properly designated officer in accordance with the rules and regulations of the Commission (1) whenever such person shall directly or indirectly make such contracts with respect to any commodity, or any future of such commodity, during any one day in an amount equal to or in excess of such amount as shall be fixed from time to time by the Commission; and (2) whenever such person shall directly or indirectly have or obtain a long or short position in any commodity or in any future of such commodity, equal to or in excess of such amount as shall be

fixed from time to time by the Commission. Such person shall keep books and records of all futures transactions and positions coming within the provisions of (1) and (2) hereof, and shall keep books and records of such cash or spot transactions in such commodity entered into, and inventories and purchase and sale commitments of such commodity held, in any month in which such person is required to make any report under the provisions of (1) or (2), as the Commission may require. Such books and records shall show complete details concerning all such transactions, positions, inventories, and commitments, including the names and addresses, of all persons having any interest therein, and shall be open at all times to inspection by any representative of the Commission or the United States Department of Justice. For the purposes of this section, the futures and cash or spot transactions and positions of any person shall include such transactions and positions of any persons directly or indirectly controlled by such person.

(Sept. 21, 1922, ch. 369, § 4i, as added June 15, 1936, ch. 545, § 5, 49 Stat. 1496, and amended Feb. 19, 1968, Pub. L. 90-258, § 9, 82 Stat. 28; Oct. 23, 1974, Pub. L. 93-463, title I, § 103(a), (f), 88 Stat. 1392.)

AMENDMENTS

1974—Pub. L. 93-463 substituted "Commission" for "Secretary of Agriculture" and "United States Department of Agriculture".

1968—Pub. L. 90-258 required recordkeeping of positions and of cash or spot transactions in commodities entered into, and inventories and purchase and sale commitments of commodities held, in any month in which reports are required to be kept, including details concerning positions, inventories, and commitments, and included controlled transactions and positions in the futures and cash or spot transactions and positions of any person.

EFFECTIVE DATE OF 1974 AMENDMENT

For effective date of amendment by Pub. L. 93-463, see section 418 of Pub. L. 93-463, set out as a note under section 2 of this title.

EFFECTIVE DATE OF 1968 AMENDMENT

Amendment by Pub. L. 90-258 effective 120 days after Feb. 19, 1968, see section 28 of Pub. L. 90-258, set out as a note under section 2 of this title.

EFFECTIVE DATE

See note under section 1 of this title.

CROSS REFERENCES

Punishment for violating the provisions of this section, see section 13 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 13 of this title.

§ 6j. Trades and executions by floor brokers; trades by futures commission merchants

(1) The Commission shall within nine months after the effective date of the Commodity Futures Trading Commission Act of 1974, and subsequently when it determines that changes are required, make a determination, after notice and opportunity for hearing, whether or not a floor broker may trade for his own account or any account in which such broker has trading discretion, and also execute a customer's order for future delivery and, if the Commission determines that such trades and such executions shall be permitted, the Commission shall further determine the terms, conditions, and circumstances under which such trades and such executions shall be conducted: *Provided,* That any such determination shall, at a minimum, take into account the effect upon the liquidity of trading of each market: *And provided further,* That nothing herein shall be construed to prohibit the Commission from making separate determinations for different contract markets when such are warranted in the judgment of the Commission, or to prohibit contract markets from setting terms and conditions more restrictive than those set by the Commission.

(2) The Commission shall within nine months after the effective date of the Commodity Futures Trading Commission Act of 1974, and subsequently when it determines that changes are required, make a determination, after notice and opportunity for hearing, whether or not a futures commission merchant may trade for its own account or any proprietary account, as defined by the Commission, and if the Commission determines that such trades shall be permitted, the Commission shall further determine the terms, conditions, and circumstances under which such trades shall be conducted: *Provided,* That any such determination, at a minimum, shall take into account the effect upon the liquidity of trading of each market: *And provided further,* That nothing herein shall be construed to prohibit the Commission from making separate determinations for different contract markets when such are warranted in the judgment of the Commission, or to prohibit contract markets from setting terms and conditions more restrictive than those set by the Commission.

(Sept. 21, 1922, ch. 369, § 4j, as added Oct. 23, 1974, Pub. L. 93-463, title II, § 203, 88 Stat. 1396, and amended Apr. 16, 1975, Pub. L. 94-16, § 2, 89 Stat. 77.)

REFERENCES IN TEXT

For the effective date of the Commodity Futures Trading Commission Act of 1974, referred in pars. (1) and (2), see section 418 of Pub. L. 93-463, set out as a note under section 2 of this title.

AMENDMENTS

1975—Pub. L. 94-16 substituted "nine months" for "six months" in pars. (1) and (2).

EFFECTIVE DATE

For effective date of section, see section 418 of Pub. L. 93-463, set out as a note under section 2 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 18 of this title.

§ 6k. Registration of associates of futures commission merchants

(1) It shall be unlawful for any person to be associated with any futures commission merchant or with any agent of a futures commission merchant as a partner, officer, or employee (or any person occupying a similar status or performing similar functions), in any capacity which involves (i) the solicitation or acceptance of customers' orders (other than in a clerical capacity) or (ii) the supervision of any person or

persons so engaged, unless such person shall have registered, under this chapter, with the Commission and such registration shall not have expired nor been suspended (and the period of suspension has not expired) or revoked, and it shall be unlawful for any futures commission merchant or any agent of a futures commission merchant to permit such a person to become or remain associated with him in any such capacity if such futures commission merchant or agent knew or should have known that such person was not so registered or that such registration had expired, been suspended (and the period of suspension has not expired) or revoked: *Provided,* That any individual who is registered as a floor broker or futures commission merchant (and such registration is not suspended or revoked) need not also register under these provisions.

(2) Any such person desiring to be registered shall make application to the Commission in the form and manner prescribed by the Commission, giving such information and facts as the Commission may deem necessary concerning the applicant. Such person, when registered hereunder, shall likewise continue to report and furnish to the Commission such information as the Commission may require. Such registration shall expire two years after the effective date thereof, and shall be renewed upon application therefor unless the registration has been suspended (and the period of such suspension has not expired) or revoked after notice and hearing as prescribed in section 9 of this title: *Provided,* That upon initial registration, the effective period of such registration shall be set by the Commission, not to exceed two years from the effective date thereof and not to be less than one year from the effective date thereof.

(Sept. 21, 1922, ch. 369, § 4k, as added Oct. 23, 1974, Pub. L. 93-463, title II, § 204(a), 88 Stat. 1396.)

EFFECTIVE DATE

For effective date of section, see section 418 of Pub. L. 93-463, set out as a note under section 2 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 9, 12a, 13, 21 of this title.

§ 6*l*. Commodity trading advisors and commodity pool operators; Congressional finding

It is hereby found that the activities of commodity trading advisors and commodity pool operators are affected with a national public interest in that, among other things—

(1) their advice, counsel, publications, writings, analyses, and reports are furnished and distributed, and their contracts, solicitations, subscriptions, agreements, and other arrangements with clients take place and are negotiated and performed by the use of the mails and other means and instrumentalities of interstate commerce;

(2) their advice, counsel, publications, writings, analyses, and reports customarily relate to and their operations are directed toward and cause the purchase and sale of commodities for future delivery on or subject to the rules of contract markets; and

(3) the foregoing transactions occur in such volume as to affect substantially transactions on contract markets.

(Sept. 21, 1922, ch. 369, § 4*l*, as added Oct. 23, 1974, Pub. L. 93-463, title II, § 205(a), 88 Stat. 1397.)

EFFECTIVE DATE

For effective date of section, see section 418 of Pub. L. 93-463, set out as a note under section 2 of this title.

§ 6m. Use of mails or other means or instrumentalities of interstate commerce by commodity trading advisors and commodity pool operators

It shall be unlawful for any commodity trading advisor or commodity pool operator, unless registered under this chapter, to make use of the mails or any means or instrumentality of interstate commerce in connection with his business as such commodity trading advisor or commodity pool operator: *Provided,* That the provisions of this section shall not apply to any commodity trading advisor who, during the course of the preceding twelve months, has not furnished commodity trading advice to more than fifteen persons and who does not hold himself out generally to the public as a commodity trading advisor.

(Sept. 21, 1922, ch. 369, § 4m, as added Oct. 23, 1974, Pub. L. 93-463, title II, § 205(a), 88 Stat. 1398.)

EFFECTIVE DATE

For effective date of section, see section 418 of Pub. L. 93-463, set out as a note under section 2 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 13, 18 of this title.

§ 6n. Registration of commodity trading advisors and commodity pool operators; application, expiration and renewal; record keeping and reports; disclosure; statements of account; denial of registration; revocation or suspension

(1) Any commodity trading advisor or commodity pool operator, or any person who contemplates becoming a commodity trading advisor or commodity pool operator, may register under this chapter by filing an application with the Commission. Such application shall contain such information, in such form and detail, as the Commission may, by rules and regulations, prescribe as necessary or appropriate in the public interest, including the following:

(A) the name and form of organization, including capital structure, under which the applicant engages or intends to engage in business; the name of the State under the laws of which he is organized; the location of his principal business office and branch offices, if any; the names and addresses of all partners, officers, directors, and persons performing similar functions or, if the applicant be an individual, of such individual; and the number of employees;

(B) the education, the business affiliations for the past ten years, and the present business affiliations of the applicant and of his partners, officers, directors, and persons performing similar functions and of any controlling person thereof;

(C) the nature of the business of the applicant, including the manner of giving advice and rendering of analyses or reports;

(D) the nature and scope of the authority of the applicant with respect to clients' funds and accounts;

(E) the basis upon which the applicant is or will be compensated; and

(F) such other information as the Commission may require to determine whether the applicant is qualified for registration.

(2) Except as hereinafter provided, such registration shall become effective thirty days after the receipt of such application by the Commission, or within such shorter period of time as the Commission may determine.

(3) All registrations under this section shall expire on the 30th day of June of each year, and shall be renewed upon application therefor subject to the same requirements as in the case of an original application.

(4)(A) Every commodity trading advisor and commodity pool operator registered under this chapter shall maintain books and records and file such reports in such form and manner as may be prescribed by the Commission. All such books and records shall be kept for a period of at least three years, or longer if the Commission so directs, and shall be open to inspection by any representative of the Commission or the Department of Justice. Upon the request of the Commission, a registered commodity trading advisor or commodity pool operator shall furnish the name and address of each client, subscriber, or participant, and submit samples or copies of all reports, letters, circulars, memorandums, publications, writings, or other literature or advice distributed to clients, subscribers, or participants, or prospective clients, subscribers, or participants.

(B) Unless otherwise authorized by the Commission by rule or regulation, all commodity trading advisors and commodity pool operators shall make a full and complete disclosure to their subscribers, clients, or participants of all futures market positions taken or held by the individual principals of their organization.

(5) Every commodity pool operator shall regularly furnish statements of account to each participant in his operations. Such statements shall be in such form and manner as may be prescribed by the Commission and shall include complete information as to the current status of all trading accounts in which such participant has an interest.

(6) The Commission is authorized, without hearing, to deny registration to any person as a commodity trading advisor or commodity pool operator if such person is subject to an outstanding order under this chapter denying to such person trading privileges on any contract market, or suspending or revoking the registration of such person as a commodity trading advisor, commodity pool operator, futures commission merchant, or floor broker, or suspending or expelling such person from membership on any contract market.

(7) The Commission after hearing may by order deny registration, revoke or suspend the registration of any commodity trading advisor or commodity pool operator if the Commission finds that such denial, revocation, or suspension is in the public interest and that—

(A) the operations of such person disrupt or tend to disrupt orderly marketing conditions, or cause or tend to cause sudden or unreasonable fluctuations or unwarranted changes in the prices of commodities;

(B) such commodity trading advisor or commodity pool operator, or any partner, officer, director, person performing similar function or controlling person thereof—

(i) has within ten years of the issuance of such order been convicted of any felony or misdemeanor involving the purchase or sale of any commodity or security, or arising out of any conduct or practice of such commodity trading advisor or commodity pool operator or affiliated person as a commodity trading advisor or commodity pool operator; or

(ii) at the time of the issuance of such order, is permanently or temporarily enjoined by order, judgment or decree of any court of competent jurisdiction from acting as a commodity trading advisor, commodity pool operator, futures commission merchant, or floor broker, or as an affiliated person or employee of any of the foregoing, or from engaging in or continuing any conduct or practice in connection with any such activity or in connection with the purchase or sale of commodities or securities; or

(C) any partner, officer, or director of such commodity trading advisor or commodity pool operator, or any person performing a similar function or any controlling person thereof is subject to an outstanding order of the Commission denying trading privileges on any contract market to such person, or suspending or revoking the registration of such person as a commodity trading advisor, commodity pool operator, futures commission merchant, or floor broker, or suspending or expelling such person from membership on any contract market.

(Sept. 21, 1922, ch. 369, § 4n, as added Oct. 23, 1974, Pub. L. 93-463, title II, § 205(a), 88 Stat. 1398.)

EFFECTIVE DATE

For effective date of section, see section 418 of Pub. L. 93-463, set out as a note under section 2 of this title.

§ 6o. Fraud and misrepresentation by commodity trading advisors and commodity pool operators

(1) It shall be unlawful for any commodity trading advisor or commodity pool operator registered under this chapter, by use of the mails or any means or instrumentality of interstate commerce, directly or indirectly—

(A) to employ any device, scheme, or artifice to defraud any client or participant or prospective client or participant; or

(B) to engage in any transaction, practice, or course of business which operates as a fraud or deceit upon any client or participant or prospective client or participant.

(2) It shall be unlawful for any commodity trading advisor or commodity pool operator registered under this chapter to represent or

imply in any manner whatsoever that he has been sponsored, recommended, or approved, or that his abilities or qualifications have in any respect been passed upon by the United States or any agency or officer thereof: *Provided,* That this section shall not be construed to prohibit a statement that a person is registered under this chapter as a commodity trading advisor or commodity pool operator, if such statement is true in fact and if the effect of such registration is not misrepresented.

(Sept. 21, 1922, ch. 369, § 4*o*, as added Oct. 23, 1974, Pub. L. 93-463, title II, § 205(a), 88 Stat. 1399.)

EFFECTIVE DATE

For effective date of section, see section 418 of Pub. L. 93-463, set out as a note under section 2 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 13 of this title.

§ 6p. Standards and examinations

The Commission may specify by rules and regulations appropriate standards with respect to training, experience, and such other qualifications as the Commission finds necessary or desirable to insure the fitness of futures commission merchants, floor brokers, and those persons associated with futures commission merchants or floor brokers. In connection therewith, the Commission may prescribe by rules and regulations the adoption of written proficiency examinations to be given to applicants for registration as futures commission merchants, floor brokers, and those persons associated with futures commission merchants or floor brokers, and the establishment of reasonable fees to be charged to such applicants to cover the administration of such examinations. The Commission may further prescribe by rules and regulations that, in lieu of examinations administered by the Commission, futures associations registered under section 21 of this title or contract markets may adopt written proficiency examinations to be given to applicants for registration as futures commission merchants, floor brokers, and those persons associated with futures commission merchants or floor brokers, and charge reasonable fees to such applicants to cover the administration of such examinations. Notwithstanding any other provision of this section, the Commission may specify by rules and regulations such terms and conditions as it deems appropriate to protect the public interest wherein exception to any written proficiency examination shall be made with respect to individuals who have demonstrated, through training and experience, the degree of proficiency and skill necessary to protect the interests of the customers of futures commission merchants and floor brokers.

(Sept. 21, 1922, ch. 369, § 4p, as added Oct. 23, 1974, Pub. L. 93-463, title II, § 206, 88 Stat. 1400.)

EFFECTIVE DATE

For effective date of section, see section 418 of Pub. L. 93-463, set out as a note under section 2 of this title.

§ 7. Designation of board of trade as "contract market"; conditions and requirements

The Commission is hereby authorized and directed to designate any board of trade as a "contract market" when, and only when, such board of trade complies with and carries out the following conditions and requirements:

(a) When located at a terminal market where any cash commodity of the kind specified in the contracts of sale of commodity for future delivery to be executed on such board is sold in sufficient volumes and under such conditions as fairly to reflect the general value of the commodity and the differences in value between the various grades of such commodity, and where there is available to such board of trade, official inspection service approved by the Secretary of Agriculture or the Commission for the purpose: *Provided,* That any board of trade not so located shall be designated as a "contract market" if such board of trade provides for the delivery of commodities on such contracts at a delivery point or points and upon terms and conditions approved by the Commission.

(b) When the governing board thereof provides for the making and filing by the board or any member thereof, as the Commission may direct, of reports in accordance with the rules and regulations, and in such manner and form and at such times as may be prescribed by the Commission, showing the details and terms of all transactions entered into by the board, or the members thereof, either in cash transactions or transactions for future delivery consummated on or subject to the rules of a board of trade, and when such governing board provides, in accordance with such rules and regulations, for the keeping of a record by the board or the members of the board of trade, as the Commission may direct, showing the details and terms of all cash and future transactions entered into by them, consummated on or subject to the rules of a board of trade, such record to be in permanent form, showing the parties to all such transactions, including the persons for whom made, any assignments or transfers thereof, with the parties thereto, and the manner in which said transactions are fulfilled, discharged, or terminated. Such record shall be required to be kept for a period of three years from the date thereof, or for a longer period if the Commission shall so direct, and shall at all times be open to the inspection of any representative of the Commission or United States Department of Justice.

(c) When the governing board thereof provides for the prevention of dissemination by the board or any member thereof of false or misleading or knowingly inaccurate reports concerning crop or market information or conditions that affect or tend to affect the price of commodity in interstate commerce.

(d) When the governing board thereof provides for the prevention of manipulation of prices and the cornering of any commodity by the dealers or operators upon such board.

(e) When the governing board thereof does not exclude from membership in and all privileges on such board of trade any duly authorized representative of any lawfully formed and conducted cooperative association of producers having adequate financial responsibility which

is engaged in any cash commodity business, if such association has complied, and agrees to comply, with such terms and conditions as are or may be imposed lawfully on other members of such board: *Provided,* That no rule of a contract market shall forbid or be construed to forbid the return on a patronage basis by such cooperative association to its bona fide members of moneys collected in excess of the expense of conducting the business of such association.

(f) When the governing board provides for making effective the final orders or decisions entered pursuant to the provisions of section 9 of this title, and the orders issued pursuant to the provisions of section 7a of this title, and for compliance in all other respects with the requirements applicable to such board of trade under this chapter.

(g) When such board of trade demonstrates that transactions for future delivery in the commodity for which designation as a contract market is sought will not be contrary to the public interest.

(Sept. 21, 1922, ch. 369, § 5, 42 Stat. 1000; June 15, 1936, ch. 545, §§ 2, 6, 49 Stat. 1491, 1497; Feb. 19, 1968, Pub. L. 90-258, §§ 10, 11, 82 Stat. 29; Oct. 23, 1974, Pub. L. 93-463, title I, § 103(a), (f), (g), title II, § 207, 88 Stat. 1392, 1400.)

AMENDMENTS

1974—Pub. L. 93-463, § 103(a), substituted "Commission" for "Secretary of Agriculture" in the introductory provisions preceding par. (a).

Par. (a). Pub. L. 93-463, § 103(a), (g), substituted "official inspection service approved by the Secretary of Agriculture or the Commission for the purpose" for "official inspection service approved by the Secretary of Agriculture for the purpose" and "Commission" for "Secretary of Agriculture".

Par. (b). Pub. L. 93-463, § 103(a), (f), substituted "Commission" for "Secretary of Agriculture" and "United States Department of Agriculture".

Par. (g). Pub. L. 93-463, § 207, added par. (g).

1968—Par. (b). Pub. L. 90-258, § 10, substituted "cash transactions or transactions for future delivery consummated on or subject to the rules of a board of trade" for "cash transactions consummated at, on, or in a board of trade, or transactions for future delivery" and "consummated on or subject to the rules of a board of trade" for "consummated at, on, or in a board of trade" where appearing the second time, respectively.

Par. (f). Pub. L. 90-258, § 11, prescribed as additional conditions and requirements for designation of board of trade as contract market that governing board provide for making effective the orders issued pursuant to the provisions of section 7a of this title and for compliance in all other respects with the requirements applicable to the board of trade under this chapter.

1936—June 15, 1936, § 2, substituted "commodity" for "grain" throughout.

Act June 15, 1936, § 6, added the proviso in par. (a), and substituted "and" for "or" after "prices."

EFFECTIVE DATE OF 1974 AMENDMENT

For effective date of amendment by Pub. L. 93-463, see section 418 of Pub. L. 93-463, set out as a note under section 2 of this title.

EFFECTIVE DATE OF 1968 AMENDMENT

Amendment by Pub. L. 90-258 effective 120 days after Feb. 19, 1968, see section 28 of Pub. L. 90-258, set out as a note under section 2 of this title.

EFFECTIVE DATE OF 1936 AMENDMENT

Amendment effective 90 days after June 15, 1936, see note under section 1 of this title.

CROSS REFERENCES

Showing of compliance with conditions and requirements of this section to accompany application for designation as contract market, see section 8 of this title.

Showing of noncompliance with conditions and requirements of this section as authorizing suspension or revocation of designation as a contract market, see section 8 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2, 8, 13a of this title.

§ 7a. Duties of contract markets

Each contract market shall—

(1) Bylaws, rules, etc.; furnishing copies to Commission

Promptly furnish the Commission copies of all bylaws, rules, regulations, and resolutions made or issued by it or by the governing board thereof or any committee, and of all changes and proposed changes therein;

(2) Access for inspection of books and records

Keep all books, records, minutes, and journals of proceedings of such contract market, and its governing board, committees, subsidiaries, and affiliates in a manner that will clearly describe all matters discussed by such contract market, governing board, committees, subsidiaries and affiliates and reveal any action taken in such matters, and allow inspection at all times by any authorized representative of the Commission or United States Department of Justice of all such books, records, minutes, and journals of proceedings. Such books, records, minutes, and journals of proceedings shall be kept for a period of three years from the date thereof, or for a longer period if the Commission shall so direct;

(3) Books and records of warehouses; keeping and inspection

Require the operators of warehouses in which or out of which any commodity is deliverable on any contract for future delivery made on or subject to the rules of such contract market, to make such reports, keep such records, and permit such warehouse visitation as the Commission may prescribe. Such books and records shall be required to be kept for a period of three years from the date thereof, or for a longer period if the Commission shall so direct, and such books, records, and warehouses shall be open at all times to inspection by any representative of the Commission or United States Department of Justice;

(4) Periods of delivery; provisions for

When so directed by order of the Commission, provide for a period, after trading in contracts of sale of any commodity for future delivery in a delivery month has ceased, during which contracts of sale of such commodity for future delivery in such month may be satisfied by the delivery of the actual cash commodity. Whenever, after due notice and opportunity for hearing, the Commission finds that provision for such a period of delivery for any one or

more commodities or markets would prevent or tend to prevent "squeezes" and market congestion endangering price stability, it shall, by order, require such period of delivery (which shall be not less than three nor more than ten business days) applicable to such commodities and markets as it finds will prevent or tend to prevent such "squeezes" and market congestion: *Provided, however,* That such order shall not apply to then existing contracts;

(5) Notice of date of intended delivery

Require the party making delivery of any commodity on any contract of sale of such commodity for future delivery to furnish the party obligated under the contract to accept delivery, written notice of the date of delivery at least one business day prior to such date of delivery. Whenever, after due notice and opportunity for hearing, the Commission finds that the giving of longer notice of delivery is necessary to prevent or diminish unfair practices in trading in any one or more commodities or markets, it shall by order require such longer notice of delivery (which shall be not more than ten business days) applicable to such commodities and markets as it finds will prevent or diminish such unfair practices: *Provided, however,* That such order shall not apply to then existing contracts;

(6) United States standards; conformity of grades to

Require that all contracts of sale of any commodity for future delivery on such contract market shall provide for the delivery thereunder of commodities of grades conforming to United States standards, if such standards shall have been officially promulgated and adopted by the Commission;

(7) Warehouse receipts as satisfaction of futures contract

Require that receipts issued under the United States Warehouse Act [7 U.S.C. 241 et seq.] shall be accepted in satisfaction of any futures contract, made on or subject to the rules of such contract market, without discrimination and notwithstanding that the warehouseman issuing such receipts is not also licensed as a warehouseman under the laws of any state or enjoys other or different privileges than under State law: *Provided, however,* That such receipts shall be for the kind, quality, and quantity of commodity specified in such contract and that the warehouse in which the commodity is stored meets such reasonable requirements as may be imposed by such contract market on other warehouses as to location, accessibility, and suitability for warehousing and delivery purposes: *And provided further,* That this paragraph shall apply only to futures contracts for those commodities which may be delivered from a warehouse subject to the United States Warehouse Act;

(8) Enforcement of bylaws, etc., relating to trading requirements

Enforce all bylaws, rules, regulations, and resolutions, made or issued by it or by the governing board thereof or any committee, which relate to terms and conditions in contracts of sale to be executed on or subject to the rules of such contract market or relate to other trading requirements, and which have been approved by the Commission pursuant to paragraph (12) of this section; and revoke and not enforce any such bylaw, rule, regulation, or resolution, made, issued, or proposed by it or by the governing board thereof or any committee, which has been disapproved by the Commission;

(9) Enforcement of bylaws, etc., providing minimum financial standards and related reporting requirements

Enforce all bylaws, rules, regulations, and resolutions made or issued by it or by the governing board thereof or by any committee, which provide minimum financial standards and related reporting requirements for futures commission merchants who are members of such contract market, and which have been approved by the Commission;

(10) Delivery points

Permit the delivery of any commodity, on contracts of sale thereof for future delivery, of such grade or grades, at such point or points and at such quality and locational price differentials as will tend to prevent or diminish price manipulation, market congestion, or the abnormal movement of such commodity in interstate commerce. If the Commission after investigation finds that the rules and regulations adopted by a contract market permitting delivery of any commodity on contracts of sale thereof for future delivery, do not accomplish the objectives of this paragraph, then the Commission shall notify the contract market of its findings and afford the contract market an opportunity to make appropriate changes in such rules and regulations. If the contract market within seventy-five days of such notification fails to make the changes which in the opinion of the Commission are necessary to accomplish the objectives of this paragraph, then the Commission after granting the contract market an opportunity to be heard, may change or supplement such rules and regulations of the contract market to achieve the above objectives: *Provided,* That any order issued under this paragraph shall not apply to contracts of sale for future delivery in any months in which contracts are currently outstanding and open: *And provided further,* That no requirement for an additional delivery point or points shall be promulgated following hearings until the contract market affected has had notice and opportunity to file exceptions to the proposed order determining the location and number of such delivery point or points;

(11) Settlement of customers' claims and grievances

Provide a fair and equitable procedure through arbitration or otherwise for the settlement of customers' claims and grievances against any member or employee thereof: *Provided,* That (i) the use of such procedure by a customer shall be voluntary, (ii) the procedure shall not be applicable to any claim in excess of $15,000, (iii) the procedure shall not result in any compulsory payment except as agreed upon between the parties, and (iv) the term "customer" as used in this paragraph shall not include a futures commission merchant or a floor broker; and

(12) Commission approval of bylaws, rules, regulations, and resolutions

Except as otherwise provided in this paragaph, submit to the Commission for its approval all bylaws, rules and regulations, and resolutions made or issued by such contract market, or by the governing board thereof or any committee thereof which relate to terms and conditions in contracts of sale to be executed on or subject to the rules of such contract market or relate to other trading requirements except those relating to the setting of levels of margin. The Commission shall approve, within thirty days of their receipt unless the Commission notifies the contract market of its inability to make such determination within such period of time, such bylaws, rules, regulations, and resolutions upon a determination that such bylaws, rules, regulations, and resolutions are not in violation of the provisions of this chapter or the regulations of the Commission and thereafter the Commission shall disapprove, after appropriate notice and opportunity for hearing, any bylaw, rule, regulation, or resolution which the Commission finds at any time is in violation of the provisions of this chapter or the regulations of the Commission. The Commission shall specify the terms and conditions under which a contract market may, in an emergency, as defined by the Commission, adopt a temporary rule dealing with trading requirements without prior Commission approval. In the event of such an emergency, as defined by the Commission, requiring immediate action, the contract market by a two-thirds vote of its governing board may place into immediate effect without prior Commission approval a temporary rule dealing with such emergency if it notifies the Commission of such action with a complete explanation of the emergency involved. The Commission may adopt a regulation exempting enumerated types of contract market operational and administrative rules from the requirement that they be submitted to the Commission for its approval.

(Sept. 21, 1922, ch. 369, § 5a, as added June 15, 1936, ch. 545, § 7, 49 Stat. 1497, and amended Feb. 19, 1968, Pub. L. 90-258, § 12, 82 Stat. 29; Oct. 23, 1974, Pub. L. 93-463, title I, § 103(a), (e), (f), title II, §§ 208-210, title IV, §§ 406, 407, 88 Stat. 1392, 1400, 1401, 1413.)

REFERENCES IN TEXT

The United States Warehouse Act, referred to in par. (7), is Part C of act Aug. 11, 1916, ch. 313, 39 Stat. 486, which is classified to chapter 10 (§ 241 et seq.) of this title. For complete classification of this Act to the Code, see Tables volume.

AMENDMENTS

1974—Par. (1). Pub. L. 93-463, § 103(a), substituted "Commission" for "Secretary of Agriculture".

Par. (2). Pub. L. 93-463, § 103(a), (f), substituted "Commission" for "United States Department of Agriculture" and "Secretary of Agriculture".

Par. (3). Pub. L. 93-463, § 103(a), (f), substituted "Commission" for "Secretary of Agriculture" and "United States Department of Agriculture".

Par. (4). Pub. L. 93-463, § 103(a), (e), substituted "Commission" for "Secretary of Agriculture" and "it" for "he".

Par. (5). Pub. L. 93-463, § 103(a), (e), substituted "Commission" for "Secretary of Agriculture" and "it" for "he".

Par. (6). Pub. L. 93-463, § 406, inserted "and adopted by the Commission" following "officially promulgated".

Par. (7). Pub. L. 93-463, § 208(a), added ": And provided further, That this paragraph shall apply only to futures contracts for those commodities which may be delivered from a warehouse subject to the United States Warehouse Act".

Par. (8). Pub. L. 93-463, § 407, substituted "been approved by the Commission pursuant to paragraph (12) of this section" for "not been disapproved by the Secretary of Agriculture pursuant to paragraph (7) of section 12a of this title" and "has been disapproved by the Commission" for "has been so disapproved".

Par. (9). Pub. L. 93-463, § 103(a), substituted "Commission" for "Secretary of Agriculture".

Par. (10). Pub. L. 93-463, § 208(d), added par. (10).

Par. (11). Pub. L. 93-463, § 209, added par. (11).

Par. (12). Pub. L. 93-463, § 210, added par. (12).

1968—Par. (2). Pub. L. 90-258, § 12(a), required contract markets to keep their books and records of proceedings of the contract markets and their governing boards, committees, subsidiaries, and affiliates in a manner that will clearly describe all matters discussed and action taken.

Pars. (8), (9). Pub. L. 90-258, § 12(b), (c), added pars. (8) and (9).

EFFECTIVE DATE OF 1974 AMENDMENT

For effective date of amendment by Pub. L. 93-463, see section 418 of Pub. L. 93-463, set out as a note under section 2 of this title.

EFFECTIVE DATE OF 1968 AMENDMENT

Amendment by Pub. L. 90-258 effective 120 days after Feb. 19, 1968, see section 28 of Pub. L. 90-258, set out as a note under section 2 of this title.

EFFECTIVE DATE

See note under section 1 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 7 of this title.

§ 7b. Suspension or revocation of designation as "contract market"

The failure or refusal of any board of trade to comply with any of the provisions of this chapter, or any of the rules, regulations, or orders of the Commission thereunder, shall be cause for suspending for a period not to exceed six months or revoking the designation of such board of trade as a "contract market" in accordance with the procedure and subject to the judicial review provided in section 8 of this title.

(Sept. 21, 1922, ch. 369, § 5b, as added June 15, 1936, ch. 545, § 7, 49 Stat. 1498, and amended Feb. 19, 1968, Pub. L. 90-258, § 13, 82 Stat. 30; Oct. 23, 1974, Pub. L. 93-463, title I, § 103(b), 88 Stat. 1392.)

AMENDMENTS

1974—Pub. L. 93-463 substituted "orders of the Commission" for "orders of the Secretary of Agriculture or the Commission".

1968—Pub. L. 90-258 provided for suspension or revocation of designation of a contract market for failure of the market to enforce orders of the Secretary of Agriculture and rules, regulations, and orders of the Commission, respectively.

EFFECTIVE DATE OF 1974 AMENDMENT

For effective date of amendment by Pub. L. 93-463, see section 418 of Pub. L. 93-463, set out as a note under section 2 of this title.

EFFECTIVE DATE OF 1968 AMENDMENT

Amendment by Pub. L. 90-258 effective 120 days after Feb. 19, 1968, see section 28 of Pub. L. 90-258, set out as a note under section 2 of this title.

EFFECTIVE DATE

See note under section 1 of this title.

§ 8. Application for designation as "contract market"; suspension or revocation of designation; hearing; review by court of appeals

Any board of trade desiring to be designated a "contract market" shall make application to the Commission for such designation and accompany the same with a showing that it complies with the conditions of section 7 of this title, and with a sufficient assurance that it will continue to comply with the requirements of such section 7. In the event of a refusal to designate as a "contract market" any board of trade that has made application therefor, such board of trade shall be afforded an opportunity for a hearing before the Commission, with the right to appeal an adverse decision after such hearing to the court of appeals as provided for in other cases in paragraph (a) of this section.

(a) The Commission is authorized to suspend for a period not to exceed six months or to revoke the designation of any board of trade as a "contract market" upon a showing that such board of trade is not enforcing or has not enforced its rules of government made a condition of its designation as set forth in section 7 of this title or that such board of trade, or any director, officer, agent, or employee thereof, otherwise is violating or has violated any of the provisions of this chapter or any of the rules, regulations, or orders of the Commission there under. Such suspension or revocation shall only be after a notice to the officers of the board of trade affected and upon a hearing: *Provided,* That such suspension or revocation shall be final and conclusive, unless within fifteen days after such suspension or revocation by the Commission such board of trade appeals to the court of appeals for the circuit in which it has its principal place of business, by filing with the clerk of such court a written petition praying that the order of the Commission be set aside or modified in the manner stated in the petition, together with a bond in such sum as the court may determine, conditioned that such board of trade will pay the costs of the proceedings if the court so directs. The clerk of the court in which such a petition is filed shall immediately cause a copy thereof to be delivered to the Commission and file in the court the record in such proceedings, as provided in section 2112 of title 28. The testimony and evidence taken or submitted before the Commission, duly filed as aforesaid as a part of the record, shall be considered by the court of appeals as the evidence in the case. The proceedings in such cases in the court of appeals shall be made a preferred cause and shall be expedited in every way. Such a court may affirm or set aside the order of the Commission or may direct it to modify its order. No such order of the Commission shall be modified or set aside by the court of appeals unless it is shown by the board of trade that the order is unsupported by the weight of the evidence or was issued without due notice and a reasonable opportunity having been afforded to such board of trade for a hearing, or infringes the Constitution of the United States, or is beyond the jurisdiction of the Commission.

(Sept. 21, 1922, ch. 369, § 6(a), 42 Stat. 1001; June 25, 1948, ch. 646, § 32(a), 62 Stat. 991; May 24, 1949, ch. 139, § 127, 63 Stat. 107; Aug. 28, 1958, Pub. L. 85-791, § 7(a), 72 Stat. 944; Feb. 19, 1968, Pub. L. 90-258, §§ 14, 15, 82 Stat. 30; Oct. 23, 1974, Pub. L. 93-463, title I, § 103(a)-(c), 88 Stat. 1392.)

CODIFICATION

Section is composed of first par. and par. (a) of section 6 of act Sept. 21, 1922, Par. (b) of such section 6 is classified to sections 9 and 15 of this title. Pars. (c) and (d) of section 6 of act Sept. 21, 1922, are classified to sections 13b and 9a of this title, respectively.

AMENDMENTS

1974—Pub. L. 93-463, § 103(a), substituted "Commission" for "Secretary of Agriculture" in the first par.

Par. (a). Pub. L. 93-463, § 103(b), (c), substituted "orders of the Commission thereunder" for "orders of the Secretary of Agriculture or the Commission thereunder" and struck out "the Secretary of Agriculture, who shall thereupon notify the other members of" following "The clerk of the court in which such a petition is filed shall immediately cause a copy thereof to be delivered to".

1968—Pub. L. 90-258, § 14, added at end of first par. provision affording any board of trade refused a contract market designation a hearing before the commission with right to appeal in adverse decision to the court of appeals as provided for in par. (a) of this section.

Par. (a). Pub. L. 90-258, § 15, deleted such parts both of first sentence and of proviso of last sentence as described the commission as made up of the Secretary of Agriculture, Secretary of Commerce, and Attorney General (covered in definition of "commission" in section 2 of this title, including representation of such officials by their designees), extended grounds for suspension or revocation of designation to include violations of any provisions of this chapter or rules, regulations, or orders of the Secretary of Agriculture or commission, required delivery of appeal petitions to Secretary of Agriculture rather than any member of the commission, who would notify the other members, and filing of commission records of proceedings on appeal by the Secretary of Agriculture and not the commission, omitted provisions describing Secretary of Agriculture as Chairman (now found in section 2 of this title), superseded such part of proviso of seventh sentence as authorized appeals to the commission from Secretary of Agriculture's refusal of a contract market designation by provisions of first par. of this section, and omitted such other part as made decision of court on appeal from commission final and binding on the parties.

1958—Pub. L. 85-791 substituted "thereupon file in the court the record in such proceedings, as provided in section 2112 of Title 28" for "forthwith prepare, certify, and file in the court a full and accurate transcript of the record in such proceedings including the notice to the board of trade, a copy of the charges, the evidence, and the report and order" in the third notice, and eliminated "certified and" following "duly" in the fourth sentence.

CHANGE OF NAME

Act June 25, 1948, as amended by act May 24, 1949, substituted "court of appeals" for "circuit court of appeals" wherever appearing in this section.

EFFECTIVE DATE OF 1974 AMENDMENT

For effective date of amendment by Pub. L. 93-463, see section 418 of Pub. L. 93-463, set out as a note under section 2 of this title.

EFFECTIVE DATE OF 1968 AMENDMENT

Amendment by Pub. L. 90-258 effective 120 days after Feb. 19, 1968, see section 28 of Pub. L. 90-258, set out as a note under section 2 of this title.

CROSS REFERENCES

Cease and desist orders, review of, see section 13a of this title.

Orders with respect to exclusion from boards of trade of cooperative associations and corporations, review of under the procedure provided in this section, see section 10a of this title.

Suspension or revocation of designation as contract market in accordance with procedure and subject to judicial review provided in this section, see section 7b of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 7b, 10a, 12, 13a of this title.

§ 9. Exclusion of persons from privilege of "contract markets"; procedure for exclusion; review by court of appeals

If the Commission has reason to believe that any person (other than a contract market) is manipulating or attempting to manipulate or has manipulated or attempted to manipulate the market price of any commodity, in interstate commerce, or for future delivery on or subject to the rules of any contract market, or has willfully made any false or misleading statement of a material fact in any registration application or any report filed with the Commission under this chapter, or willfully omitted to state in any such application or report any material fact which is required to be stated therein, or otherwise is violating or has violated any of the provisions of this chapter or of the rules, regulations, or orders of the Commission thereunder, it may serve upon such person a complaint stating its charges in that respect, which complaint shall have attached or shall contain therein a notice of hearing, specifying a day and place not less than three days after the service thereof, requiring such person to show cause why an order should not be made prohibiting it from trading on or subject to the rules of any contract market, and directing that all contract markets refuse all trading privileges to such person, until further notice of the Commission, and to show cause why the registration of such person, if registered as futures commission merchant or any person associated therewith as described in section 6k of this title, commodity trading advisor, commodity pool operator, or as floor broker hereunder, should not be suspended or revoked. Said hearing may be held in Washington, District of Columbia, or elsewhere, before the Commission, or before an Administrative Law Judge designated by the Commission, which Administrative Law Judge shall cause all evidence to be reduced to writing and forthwith transmit the same to the Commission. Upon evidence received, the Commission may prohibit such person from trading on or subject to the rules of any contract market and require all contract markets to refuse such person all trading privileges thereon for such period as may be specified in the order, and, if such person is registered as futures commission merchant or any person associated therewith as described in section 6k of this title, commodity trading advisor, commodity pool operator, or as floor broker hereunder, may suspend, for a period not to exceed six months, or revoke, the registration of such person, and may assess such person a civil penalty of not more than $100,000 for each such violation. Notice of such order shall be sent forthwith by registered mail or by certified mail or delivered to the offending person and to the governing boards of said contract markets. After the issuance of the order by the Commission, the person against whom it is issued may obtain a review of such order or such other equitable relief as to the court may seem just by filing in the United States court of appeals of the circuit in which the petitioner is doing business a written petition, within fifteen days after the notice of such order is given to the offending person praying that the order of the Commission be set aside. A copy of such petition shall be forthwith transmitted by the clerk of the court to the Commission and thereupon the Commission shall file in the court the record theretofore made, as provided in section 2112 of title 28. Upon the filing of the petition the court shall have jurisdiction to affirm, to set aside, or modify the order of the Commission, and the findings of the Commission as to the facts, if supported by the weight of evidence, shall in like manner be conclusive.

(Sept. 21, 1922, ch. 369, § 6(b), 42 Stat. 1001; June 15, 1936, ch. 545, § 8(a)-(d), (h)-(j), 49 Stat. 1498, 1499; June 25, 1948, ch. 646, § 32(a), 62 Stat. 991; May 24, 1949, ch. 139, § 127, 63 Stat. 107; Aug. 28, 1958, Pub. L. 85-791, § 7(b), 72 Stat. 944; June 11, 1960, Pub. L. 86-507, § 1(2), 74 Stat. 200; Feb. 19, 1968, Pub. L. 90-258, § 16, 82 Stat. 30; Oct. 23, 1974, Pub. L. 93-463, title I, § 103(a), (b), (e), title II, §§ 204(b), 205(b), 212(a)(1), (2), title IV, § 408, 88 Stat. 1392, 1397, 1400, 1403, 1414.)

CODIFICATION

Section is composed of part of par. (b) of section 6 of act Sept. 21, 1922. A further provision of par. (b) is contained in section 15 of this title. First par. and par. (a) of section 6 are set out as section 8 of this title. Pars. (c) and (d) of section 6 are set out as sections 13b and 9a of this title, respectively.

AMENDMENTS

1974—Pub. L. 93-463 substituted "Commission" for "Secretary of Agriculture" and "Secretary of Agriculture or the commission", substituted "it" for "he", inserted "or any person associated therewith as described in section 6k of this title," following "futures commission merchant" wherever appearing, inserted "commodity trading advisor, commodity pool operator" before "or as floor broker" wherever appearing, added provision for the assessment of civil penalties of not more than $100,000 for each violation, set a limit of fifteen days after the issuance of an order within which period the person against whom the order was issued must file with the court of appeals his petition that the order be set aside, and substituted "an Administrative Law Judge" and "Administrative Law Judge" for "a referee" and "referee", respectively.

1968—Pub. L. 90-258 provided for denial of trading privileges to persons other than contract markets and suspension or revocation of registration of futures commission merchants and floor brokers, who are

manipulating or have attempted to manipulate prices, for willful, material, misstatements in, or omissions from, reports or registration statements, and for violations of orders of Secretary of Agriculture or commission, and authorized the Secretary to prohibit such persons from trading on or subject to rules of any contract market.

1960—Pub. L. 86-507 inserted "or by certified mail" following "registered mail".

1958—Pub. L. 85-791 substituted "transmitted by the clerk of the court to the Secretary of Agriculture and thereupon the Secretary of Agriculture shall file in the court the record theretofore made, as provided in section 2112 of Title 28" for "served upon the Secretary of Agriculture by delivering such copy to him and thereupon the Secretary of Agriculture shall forthwith certify and file in the court a transcript of the record theretofore made, including evidence received" in the seventh sentence, and substituted "petition" for "transcript" in the eighth sentence.

1936—Act June 15, 1936, among other changes, amended section by adding provisions relating to the service of complaints and penalties for violations of this chapter.

CHANGE OF NAME

Act June 25, 1948, as amended by act May 24, 1949, substituted "court of appeals" for "circuit court of appeals" wherever appearing in this section.

EFFECTIVE DATE OF 1974 AMENDMENT

For effective date of amendment by Pub. L. 93-463, see section 418 of Pub. L. 93-463, set out as a note under section 2 of this title.

EFFECTIVE DATE OF 1968 AMENDMENT

Amendment by Pub. L. 90-258 effective 120 days after Feb. 19, 1968, see section 28 of Pub. L. 90-258, set out as a note under section 2 of this title.

EFFECTIVE DATE OF 1936 AMENDMENT

Amendment effective 90 days after June 15, 1936, see note under section 1 of this title.

CROSS REFERENCES

Conditional requirements for designation of board of trade as "contract market", see section 7 of this title.

Suspension or revocation of registration as futures commission merchant for accepting orders from person denied trading privileges pursuant to order under provisions of this section, see section 12a of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 6k, 7, 9a, 12, 12a, 13b, 18, 21 of this title.

§ 9a. Assessment of money penalties

In determining the amount of the money penalty assessed under section 9 of this title, the Commission shall consider, in the case of a person whose primary business involves the use of the commodity futures market—the appropriateness of such penalty to the size of the business of the person charged, the extent of such person's ability to continue in business, and the gravity of the violation; and in the case of a person whose primary business does not involve the use of the commodity futures market—the appropriateness of such penalty to the net worth of the person charged, and the gravity of the violation. If the offending person upon whom such penalty is imposed, after the lapse of the period allowed for appeal or after the affirmance of such penalty, shall fail to pay such penalty the Commission shall refer the matter to the Attorney General who shall recover such penalty by action in the appropriate United States district court.

(Sept. 21, 1922, ch. 369, § 6(d), as added Oct. 23, 1974, Pub. L. 93-463, title II, § 212(a)(3), 88 Stat. 1403.)

CODIFICATION

Section is composed of par. (d) of section 6 of act Sept. 21, 1922. The first par. and par. (a) of section 6 are classified to section 8 of this title. Par. (b) of section 6 is classified to sections 9 and 15 of this title. Par. (c) of section 6 is classified to section 13b of this title.

EFFECTIVE DATE

For effective date of section, see section 418 of Pub. L. 93-463, set out as a note under section 2 of this title.

§ 10. Repealed. June 25, 1948, ch. 646, § 39, 62 Stat. 992, eff. Sept. 1, 1948

Section, acts Sept. 21, 1922, ch. 369, § 6 (b), 42 Stat. 1001; June 15, 1936, ch. 545, § 8(k), 49 Stat. 1499, related to review by Supreme Court on certiorari and is now covered by section 1254 of Title 28, Judiciary and Judicial Procedure.

§ 10a. Cooperative associations and corporations, exclusion from board of trade; rules of board inapplicable to payment of compensation by association

(1) No board of trade which has been designated as a "contract market" shall exclude from membership in, and all privileges on, such board of trade, any association or corporation engaged in cash commodity business having adequate financial responsibility which is organized under the cooperative laws of any State, or which has been recognized as a cooperative association of producers by the United States Government or by any agency thereof, if such association or corporation complies and agrees to comply with such terms and conditions as are or may be imposed lawfully upon other members of such board, and as are or may be imposed lawfully upon a cooperative association of producers engaged in cash commodity business, unless such board of trade is authorized by the commission to exclude such association or corporation from membership and privileges after hearing held upon at least three days' notice subsequent to the filing of complaint by the board of trade: *Provided, however,* That if any such association or corporation shall fail to meet its obligations with any established clearing house or clearing agency of any contract market, such association or corporation shall be ipso facto debarred from further trading on such contract market, except such trading as may be necessary to close open trades and to discharge existing contracts in accordance with the rules of such contract market applicable in such cases. Such commission may prescribe that such association or corporation shall have and retain membership and privileges, with or without imposing conditions, or it may permit such board of trade immediately to bar such association or corporation from membership and privileges. Any order of said commission entered hereunder shall be reviewable by the court of appeals for the circuit in which such association or corporation, or such board of trade, has its principal place of business, on written petition either of such association or corporation, or of such board of

trade, under the procedure provided in section 8 of this title, but such order shall not be stayed by the court pending review.

(2) No rule of any board of trade designated as a contract market shall forbid or be construed to forbid the payment of compensation on a commodity-unit basis, or otherwise, by any federated cooperative association to its regional member-associations for services rendered or to be rendered in connection with any organization work, educational activity, or procurement of patronage, provided no part of any such compensation is returned to patrons (whether members or nonmembers) of such cooperative association, or of its regional or local member-associations, otherwise than as a dividend on capital stock or as a patronage dividend out of the net earnings or surplus of such federated cooperative association.

(Sept. 21, 1922, ch. 369, § 6a, as added June 15, 1936, ch. 545, § 9, 49 Stat. 1499, and amended June 25, 1948, ch. 646, § 32(a), 62 Stat. 991; May 24, 1949, ch. 139, § 127, 63 Stat. 107.)

CHANGE OF NAME

Act June 25, 1948, as amended by act May 24, 1949, substituted "court of appeals" for "circuit court of appeals" wherever appearing in this section.

EFFECTIVE DATE

See note set out under section 1 of this title.

§ 11. Vacation on request of designation as "contract market"; redesignation

Any board of trade that has been designated a contract market in the manner provided in this chapter may have such designation vacated and set aside by giving notice in writing to the Commission requesting that its designation as a contract market be vacated, which notice shall be served at least ninety days prior to the date named therein as the date when the vacation of designation shall take effect. Upon receipt of such notice the Commission shall forthwith order the vacation of the designation of such board of trade as a contract market, effective upon the day named in the notice, and shall forthwith send a copy of the notice and its order to all other contract markets. From and after the date upon which the vacation became effective the said board of trade can thereafter be designated again a contract market by making application to the Commission in the manner in this chapter provided for an original application.

(Sept. 21, 1922, ch. 369, § 7, 42 Stat. 1002; Oct. 23, 1974, Pub. L. 93-463, title I, § 103(a), (e), 88 Stat. 1392.)

AMENDMENTS

1974—Pub. L. 93-463 substituted "Commission" for "Secretary of Agriculture" and "its order" for "his order".

EFFECTIVE DATE OF 1974 AMENDMENT

For effective date of amendment by Pub. L. 93-463, see section 418 of Pub. L. 93-463, set out as a note under section 2 of this title.

§ 12. Investigations and reports by Commission

For the efficient execution of the provisions of this chapter, and in order to provide information for the use of Congress, the Commission may make such investigations as it may deem necessary to ascertain the facts regarding the operations of boards of trade and other persons subject to any of the provisions of this chapter, whether prior or subsequent to the enactment of this chapter, and may publish from time to time, in its discretion, the result of such investigation and such statistical information gathered therefrom as it may deem of interest to the public, except data and information which would separately disclose the business transactions of any person and trade secrets or names of customers: *Provided,* That nothing in this section shall be construed to prohibit the Commission from making or issuing such reports as it may deem necessary relative to the conduct of any board of trade or of the transactions of any person found guilty of violating the provisions of this chapter under the proceedings prescribed in sections 8, 9 and 15 of this title: *Provided further,* That the Commission in any report may include the facts as to any actual transaction. The Commission upon its own initiative or in cooperation with existing governmental agencies, shall investigate marketing conditions of commodity and commodity products and byproducts, including supply and demand for these commodities, cost to the consumer, and handling and transportation charges. It shall likewise compile and furnish to producers, consumers, and distributors, by means of regular or special reports, or by such methods as it may deem most effective, information respecting the commodity markets, together with information on supply, demand, prices, and other conditions in this and other countries that affect the markets.

(Sept. 21, 1922, ch. 369, § 8, 42 Stat. 1003; June 15, 1936, ch. 545, § 2, 49 Stat. 1491; Feb. 19, 1968, Pub. L. 90-258, § 19(a), 82 Stat. 32; Oct. 23, 1974, Pub. L. 93-463, title I, § 103(a), (e), 88 Stat. 1392.)

CODIFICATION

Section is first paragraph of section 8 of act Sept. 21, 1922. Second, third, and fourth paragraphs of section 8 are classified to sections 12-1, 12-2, and 12-3 of this title, respectively.

AMENDMENTS

1974—Pub. L. 93-463 substituted "Commission" for "Secretary of Agriculture", "it" for "he", "its" for "his", and "It" for "He".

1968—Pub. L. 90-258 authorized investigations to ascertain facts regarding operations of other persons subject to any provisions of this chapter.

1936—Act June 15, 1936, substituted "commodity" for "grain" throughout.

EFFECTIVE DATE OF 1974 AMENDMENT

For effective date of amendment by Pub. L. 93-463, see section 418 of Pub. L. 93-463, set out as a note under section 2 of this title.

EFFECTIVE DATE OF 1968 AMENDMENT

Amendment by Pub. L. 90-258 effective 120 days after Feb. 19, 1968, see section 28 of Pub. L. 90-258, set out as a note under section 2 of this title.

EFFECTIVE DATE OF 1936 AMENDMENT

Amendment effective 90 days after June 15, 1936, see note under section 1 of this title.

CROSS REFERENCES

Publication of harmful acts notwithstanding the provisions of this section, see section 12a of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 12-1, 12a, 15, 20 of this title.

§ 12-1. Disclosure of names of traders on the commodity markets by Commission

Notwithstanding the provisions of section 12 of this title or of any other law, the Commission may, in its discretion, from time to time disclose and make public the names and addresses of all traders on the boards of trade on the commodity markets with respect to whom the Commission has information, and any other information in the possession of the Commission relating to the amount of commodities purchased or sold by each such trader; and when requested by any committee of either House of Congress, acting within the scope of its jurisdiction, shall furnish to such committee and make public the names and addresses of all traders on such boards of trade with respect to whom the Commission has information, and any other information in the possession of the Commission relating to the amounts of commodities purchased or sold by each such trader; and when requested by any department or agency of the executive branch of the Government of the United States, acting within the scope of its jurisdiction, may, in its discretion, furnish to such department or agency any information in the possession of the Commission obtained in connection with the administration of this chapter: *Provided, however,* That information so furnished to any such department or agency shall not be disclosed by such department or agency except in any action or proceeding under the laws of the United States to which it, or the Commission, or the United States is a party.

(Sept. 21, 1922, ch. 369, § 8, 42 Stat. 1003; Dec. 19, 1947, ch. 523, 61 Stat. 941; Feb. 19, 1968, Pub. L. 90-258, § 19(b), 82 Stat. 32; Oct. 23, 1974, Pub. L. 93-463, title I, § 103(a), (e), (f), 88 Stat. 1392.)

CODIFICATION

Section is second paragraph of section 8 of act Sept. 21, 1922, which was added by act Dec. 19, 1947. The first, third, and fourth pars. of section 8 are classified to sections 12, 12-2, and 12-3 of this title, respectively.

AMENDMENTS

1974—Pub. L. 93-463 substituted "Commission" for "Secretary of Agriculture", "Department of Agriculture", and "Secretary", and substituted "its" for "his".

1968—Pub. L. 90-258 authorized the Secretary of Agriculture to furnish information in the possession of his Department and obtained in connection with administration of this chapter to any executive department or agency of the Federal Government when requested by the department or agency, acting within scope of its jurisdiction, but restricted disclosure of such information by the department or agency to actions or proceedings under Federal laws to which it, the Secretary of Agriculture, or the United States is a party.

EFFECTIVE DATE OF 1974 AMENDMENT

For effective date of amendment by Pub. L. 93-463, see section 418 of Pub. L. 93-463, set out as a note under section 2 of this title.

EFFECTIVE DATE OF 1968 AMENDMENT

Amendment by Pub. L. 90-258 effective 120 days after Feb. 19, 1968, see section 28 of Pub. L. 90-258, set out as a note under section 2 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 20 of this title.

§ 12-2. Annual report to Congress

The Commission shall submit to the Congress a written report within one hundred and twenty days after the end of each fiscal year detailing the operations of the Commission during such fiscal year. The Commission shall include in such report such information, data and recommendations for further legislation as it may deem advisable with respect to the administration of this chapter and its powers and functions under this chapter.

(Sept. 21, 1922, ch. 369, § 8, as added Oct. 23, 1974, Pub. L. 93-463, title I, § 105, 88 Stat. 1392.)

CODIFICATION

Section is third par. of section 8 of act Sept. 21, 1922, which was added by Pub. L. 93-463. First, second, and fourth pars. of section 8 are classified, respectively, to sections 12, 12-1, and 12-3 of this title.

EFFECTIVE DATE

For effective date of section, see section 418 of Pub. L. 93-463, set out as a note under section 2 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 20 of this title.

§ 12-3. Reviews and audits by Comptroller General

The Comptroller General of the United States shall conduct reviews and audits of the Commission and make reports thereon. For the purpose of conducting such reviews and audits the Comptroller General shall be furnished such information regarding the powers, duties, organizations, transactions, operations, and activities of the Commission as he may require and he and his duly authorized representatives shall, for the purpose of securing such information, have access to and the right to examine any books, documents, papers, or records of the Commission except that in his reports and Comptroller General shall not include data and information which would separately disclose the business transactions of any person and trade secrets or names of customers, although such data shall be provided upon request by any committee of either House of Congress acting within the scope of its jurisdiction.

(Sept. 21, 1922, ch. 369, § 8, as added Oct. 23, 1974, Pub. L. 93-463, title I, § 105, 88 Stat. 1392.)

CODIFICATION

Section is fourth par. of section 8 of act Sept. 21, 1922, which was added by Pub. L. 93-463. First, second, and third pars. of section 8 are classified, respectively, to sections 12, 12-1, and 12-2 of this title.

EFFECTIVE DATE

For effective date of section, see section 418 of Pub. L. 93-463, set out as a note under section 2 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 20 of this title.

§ 12a. Registration of commission merchants and brokers; fees; rules and regulations; publication of harmful acts; disapproval of bylaws, etc.

The Commission is authorized—

(1) to register futures commission merchants and persons associated therewith as described in section 6k of this title, commodity trading advisors, commodity pool operators and floor brokers upon application in accordance with rules and regulations and in form and manner to be prescribed by the Commission; and

(2) to refuse to register any person—

(A) if the prior registration of such person has been suspended (and the period of such suspension shall not have expired) or has been revoked;

(B) if it is found, after opportunity for hearing, that the applicant is unfit to engage in the business for which the application for registration is made, (i) because such applicant, or, if the applicant is a partnership, any general partner, or, if the applicant is a corporation, any officer or holder of more than 10 per centum of the stock, at any time engaged in any practice of the character prohibited by this chapter or was convicted of a felony in any State or Federal court, or was debarred by any agency of the United States from contracting with the United States, or the applicant willfully made any material false or misleading statement in his application or willfully omitted to state any material fact in connection with the application, or (ii) for other good cause shown; or

(C) in the case of an applicant for registration as futures commission merchant, if it is found after opportunity for hearing that the applicant has not established that he meets the minimum financial requirements under section 6f of this title: *Provided,* That pending final determination under subparagraph (B) or (C), registration shall not be granted: *And provided further,* That the applicant may appeal from a refusal of registration under subparagraph (B) or (C) in the manner provided in section 9 of this title; and

(3) in accordance with the procedure provided for in section 9 of this title, to suspend or revoke the registration of any person registered under this chapter if cause exists under paragraph (2)(B) or (C) of this section which would warrant a refusal of registration of such person, and to suspend or revoke the registration or any futures commission merchant who shall knowingly accept any order for the purchase or sale of any commodity for future delivery on or subject to the rules of any contract market from any person if such person has been denied trading privileges on any contract market by order of the Commission under the provisions of section 9 of this title and the period of denial specified in such order shall not have expired; and

(4) to fix and establish from time to time reasonable fees and charges for registrations and renewals thereof; and

(5) to make and promulgate such rules and regulations as, in the judgment of the Commission, are reasonably necessary to effectuate any of the provisions or to accomplish any of the purposes of this chapter; and

(6) to communicate to the proper committee or officer of any contract market and to publish, notwithstanding the provisions of section 12 of this title, the full facts concerning any transaction or market operation, including the names of parties thereto, which in the judgement of the Commission disrupts or tends to disrupt any market or is otherwise harmful or against the best interests of producers and consumers; and

(7) to alter or supplement the rules of a contract market insofar as necessary or appropriate by rule or regulation or by order, if after making the appropriate request in writing to a contract market that such contract market effect on its own behalf specified changes in its rules and practices, and after appropriate notice and opportunity for hearing, the Commission determines that such contract market has not made the changes so required, and that such changes are necessary or appropriate for the protection of persons producing, handling, processing, or consuming any commodity traded for future delivery on such contract market, or the product or byproduct thereof, or for the protection of traders or to insure fair dealing in commodities traded for future delivery on such contract market. Such rules, regulations, or orders may specify changes with respect to such matters as:

(A) terms or conditions in contracts of sale to be executed on or subject to the rules of such contract market;

(B) the form or manner of execution of purchases and sales for future delivery;

(C) other trading requirements, excepting the setting of levels of margin;

(D) safeguards with respect to the financial responsibility of members;

(E) the manner, method, and place of soliciting business, including the content of such solicitations; and

(F) the form and manner of handling, recording, and accounting for customers' orders, transactions, and accounts; and

(8) to make and promulgate such rules and regulations with respect to those persons registered under this chapter, who are not members of a contract market, as in the judgment of the Commission are reasonably necessary to protect the public interest and promote just and equitable principles of trade, including but not limited to the manner, method, and place of soliciting business, including the content of such solicitation; and

(9) to direct the contract market whenever it has reason to believe that an emergency exists, to take such action as, in the Commission's judgement, is necessary to maintain or restore orderly trading in, or liquidation of, any futures contract. The term

"emergency" as used herein shall mean, in addition to threatened or actual market manipulations and corners, any act of the United States or a foreign government affecting a commodity or any other major market disturbance which prevents the market from accurately reflecting the forces of supply and demand for such commodity: *Provided,* That nothing herein shall be deemed to limit the meaning or interpretation given by a contract market to the terms "market emergency", "emergency", or equivalent language in its own bylaws, rules, regulations, or resolutions.

(Sept. 21, 1922, ch. 369, § 8a, as added June 15, 1936, ch. 545, § 10, 49 Stat. 1500, and amended Aug. 5, 1955, ch. 574, 69 Stat. 535; Feb. 19, 1968, Pub. L. 90-258, §§ 20-23, 82 Stat. 32, 33; Oct. 23, 1974, Pub. L. 93-463, title I, § 103(a), (b), (e), title II, §§ 204(c), 205(c), 213-215, 88 Stat. 1392, 1397, 1400, 1404.)

AMENDMENTS

1974—Pub. L. 93-463, § 103(a), substituted "Commission" for "Secretary of Agriculture" in the introductory provisions preceding par. (1).

Par. (1). Pub. L. 93-463, §§ 103(a), 204(c), 205(c), substituted "Commission" for "Secretary of Agriculture", inserted "and persons associated therewith as described in section 6k of this title," following "futures commission merchants", and inserted "commodity trading advisors, commodity pool operators" before "and floor brokers".

Par. (3). Pub. L. 93-463, § 103(a), substituted "Commission" for "Secretary of Agriculture".

Par. (5). Pub. L. 93-463, § 103(a), substituted "Commission" for "Secretary of Agriculture".

Par. (6). Pub. L. 93-463, § 103(a), substituted "Commission" for "Secretary of Agriculture".

Par. (7). Pub. L. 93-463, §§ 103(b), (e), 213, substituted provisions covering the altering or supplementing of the rules of a contract market for provisions covering the disapproval of bylaws, rules, regulations, and resolutions made, issued, or proposed by a contract market and substituted "Commission" for "Secretary of Agriculture or the commission" and "it" for "he".

Par. (8). Pub. L. 93-463, § 214, added par. (8).

Par. (9). Pub. L. 93-463, § 215, added par. (9).

1968—Par. (2), Pub. L. 90-258, § 20, designated existing provisions as subpar. (A), substituting "if the prior registration of such person" for "if such person has violated any of the provisions of this chapter or any of the rules or regulations promulgated by the Secretary of Agriculture hereunder for which the registration of such person" and added subpars. (B) and (C).

Par. (3), Pub. L. 90-258, § 21, authorized the Secretary of Agriculture, in accordance with the procedure provided for in section 9 of this title, to suspend or revoke the registration of any person registered under this chapter if cause exists under par. (2)(B) or (C) of this section which would warrant a refusal of registration of such person.

Par. (4). Pub. L. 90-258, § 22, deleted authorization for establishment of fees for copies of registration certificates.

Par. (7). Pub. L. 90-258, § 23, added par. (7).

1955—Par. (4). Act Aug. 5, 1955, authorized the Secretary to fix and establish reasonable fees for registrations and renewals, and eliminated provisions which set the fee for each registration and renewal at not more than $10.

EFFECTIVE DATE OF 1974 AMENDMENT

For effective date of amendment by Pub. L. 93-463, see section 418 of Pub. L. 93-463, set out as a note under section 2 of this title.

EFFECTIVE DATE OF 1968 AMENDMENT

Amendment by Pub. L. 90-258 effective 120 days after Feb. 19, 1968, see section 28 of Pub. L. 90-258, set out as a note under section 2 of this title.

EFFECTIVE DATE

See note under section 1 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 20 of this title.

§ 12b. Trading ban violations; prohibition

It shall be unlawful for any person, against whom there is outstanding any order of the Commission prohibiting him from trading on or subject to the rules of any contract market, to make or cause to be made in contravention of such order, any contract for future delivery of any commodity, on or subject to the rules of any contract market.

(Sept. 21, 1922, ch. 369, § 8b, as added Feb. 19, 1968, Pub. L. 90-258, § 24, 82 Stat. 33, and amended Oct. 23, 1974, Pub. L. 93-463, title I, § 103(a), 88 Stat. 1392.)

AMENDMENTS

1974—Pub. L. 93-463 substituted "Commission" for "Secretary of Agriculture".

EFFECTIVE DATE OF 1974 AMENDMENT

For effective date of amendment by Pub. L. 93-463 see section 418 of Pub. L. 93-463, set out as a note under section 2 of this title.

EFFECTIVE DATE

Section effective 120 days after Feb. 19, 1968, see section 28 of Pub. L. 90-258, set out as a note under section 2 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 13 of this title.

§ 12c. Disciplinary actions; notice; review of action by Commission

(1)(A) Any exchange or the Commission if the exchange fails to act, may suspend, expel, or otherwise discipline any person who is a member of that exchange, or deny any person access to the exchange. Any such action shall be taken solely in accordance with the rules of that exchange.

(B) Any suspension, expulsion, disciplinary, or access denial procedure established by an exchange rule shall provide for written notice to the Commission and to the person who is suspended, expelled, or disciplined, or denied access, within thirty days, which includes the reasons for the exchange action in the form and manner the Commission prescribes. Otherwise the notice and reasons shall be kept confidential.

(2) The Commission may, in its discretion and in accordance with such standards and procedures as it deems appropriate, review any decision by an exchange whereby a person is suspended, expelled, otherwise disciplined, or denied access to the exchange. In addition, the Commission may, in its discretion and upon application of any person who is adversely affected by any other exchange action, review such action.

(3) The Commission may affirm, modify, set aside, or remand any exchange decision it re-

views pursuant to paragraph (2) of this section, after a determination on the record whether the action of the exchange was in accordance with the policies of this chapter. Subject to judicial review, any order of the Commission entered pursuant to paragraph (2) of this section shall govern the exchange in its further treatment of the matter.

(4) The Commission, in its discretion, may order a stay of any action taken pursuant to paragraph (1) of this section pending review thereof.

(Sept. 21, 1922, ch. 369, § 8c, as added Oct. 23, 1974, Pub. L. 93-463, title II, § 216, 88 Stat. 1405.)

EFFECTIVE DATE

For effective date of section, see section 418 of Pub. L. 93-463, set out as a note under section 2 of this title.

§ 13. Violations generally; punishment; costs of prosecution

(a) Embezzlement, larceny, etc.; felony; value

It shall be a felony punishable by a fine of not more than $100,000 or imprisonment for not more than five years, or both, together with the costs of prosecution, for any futures commission merchant, or any employee or agent thereof, to embezzle, steal, purloin, or with criminal intent convert to his own use or the use of another, any money, securities, or property having a value in excess of $100, which was received by such commission merchant to margin, guarantee, or secure the trades or contracts of any customer of such commission merchant or accruing to such customer as the result of such trades or contracts, the word "value" as used in this paragraph means face, par, or market value, or cost price, either wholesale or retail, whichever is greater.

(b) Price manipulation; cornering; postal or interstate dissemination of false or misleading information affecting price of commodity in interstate commerce; felony

It shall be a felony punishable by a fine of not more than $100,000 or imprisonment for not more than five years, or both, together with the costs of prosecution, for any person to manipulate or attempt to manipulate the price of any commodity in interstate commerce, or for future delivery on or subject to the rules of any contract market, or to corner or attempt to corner any such commodity, or knowingly to deliver or cause to be delivered for transmission through the mails or in interstate commerce by telegraph, telephone, wireless, or other means of communication false or misleading or knowingly inaccurate reports concerning crop or market information or conditions that affect or tend to affect the price of any commodity in interstate commerce.

(c) Other violations; misdemeanors

Except as provided in paragraphs (a) and (b) of this section, it shall be a misdemeanor punishable by a fine of not more than $100,000 or imprisonment for not more than one year, or both, together with the costs of prosecution, for any person to violate the provisions of sections 6 to 6e, 6h, 6i, 6k, 6m, 6o or 12b of this title, or to fail to evidence any contract mentioned in section 6 of this title by a record in writing as therein required.

(d) Transactions by Commissioners and Commission employees prohibited

It shall be a felony punishable by a fine of not more than $10,000 or imprisonment for not more than five years, or both, together with the costs of prosecution, for any Commissioner of the Commission or any employee or agent thereof, to participate, directly or indirectly, in any transaction in commodity futures or any transaction of the character of or which is commonly known to the trade as an "option", "privilege", "indemnity", "bid", "offer", "put", "call", "advance guaranty", or "decline guaranty", or for any such person to participate, directly or indirectly, in any investment transaction in an actual commodity: *Provided,* That such prohibition against any investment transaction in an actual commodity shall not apply to a transaction in which such person buys an agricultural commodity or livestock for use in his own farming or ranching operations or sells an agricultural commodity which he has produced in connection with his own farming or ranching operations nor to any transaction in which he sells livestock which he has owned at least three months. With respect to such excepted transactions, the Commission shall require any Commissioner of the Commission or any employee or agent thereof who participates in any such transaction to notify the Commission thereof in accordance with such regulations as the Commission shall prescribe and the Commission shall make such information available to the public.

(e) Use of information by Commissioners and Commission employees prohibited

It shall be a felony punishable by a fine or not more than $10,000 or imprisonment for not more than five years, or both, together with the costs of prosecution—(1) for any Commissioner of the Commission or any employee or agent thereof who, by virtue of his employment or position, acquires information which may affect or tend to affect the price of any commodity futures or commodity and which information has not been made public to impart such information with intent to assist another person, directly or indirectly, to participate in any transaction in commodity futures, any transaction in an actual commodity, or in any transaction of the character of or which is commonly known to the trade as an "option", "privilege", "indemnity", "bid", "offer", "put", "call", "advance guaranty", or "decline guaranty"; and (2) for any person to acquire such information from any Commissioner of the Commission or any employee or agent thereof and to use such information in any transaction in commodity futures, any transaction in an actual commodity, or in any transaction of the character of or which is commonly known to the trade as an "option", "privilege", "indemnity", "bid", "offer", "put", "call", "advance guaranty", or "decline guaranty".

(Sept. 21, 1922, ch. 369, § 9, 42 Stat. 1003; June 15, 1936, ch. 545, §§ 2, 11, 49 Stat. 1491, 1501; Feb. 19, 1968, Pub. L. 90-258, § 25, 82 Stat. 33; Oct. 23, 1974, Pub. L. 93-463, title II, § 212(d), title IV, §§ 401, 409, 88 Stat. 1404, 1412, 1414.)

AMENDMENTS

1974—Par. (a). Pub. L. 93-463, § 212(d)(1), substituted "$100,000" for "$10,000".

Par. (b). Pub. L. 93-463, § 212(d)(2), substituted "$100,000" for "$10,000".

Par. (c). Pub. L. 93-463, §§ 212(d)(3), 409, substituted "$100,000" for "$10,000" and inserted reference to sections 6k, 6m, and 6o of this title.

Pars. (d), (e). Pub. L. 93-463, § 401, added pars. (d) and (e).

1968—Par. (a). Pub. L. 90-258 added par. (a).

Par. (b). Pub. L. 90-258 incorporated existing offenses in provisions designated as par. (b), changed the classification thereof from misdemeanors to felonies, and increased term of imprisonment from not more than one year to not more than five years.

Par. (c). Pub. L. 90-258 incorporated existing offenses in provisions designated as par. (c), and included penalty for violation of section 12b of this title.

1936—Act June 15, 1936, amended section generally and provided that price manipulations of commodities in interstate commerce was a violation.

EFFECTIVE DATE OF 1974 AMENDMENT

For effective date of amendment by Pub. L. 93-463, see section 418 of Pub. L. 93-463, set out as a note under section 2 of this title.

EFFECTIVE DATE OF 1968 AMENDMENT

Amendment by Pub. L. 90-258 effective 120 days after Feb. 19, 1968, see section 28 of Pub. L. 90-258, set out as a note under section 2 of this title.

EFFECTIVE DATE OF 1936 AMENDMENT

Amendment effective 90 days after June 15, 1936, see note under section 1 of this title.

CROSS REFERENCES

Misdemeanor defined, see section 1 of Title 18, Crimes and Criminal Procedure.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 13b, 15a of this title.

§ 13-1. Violations, prohibition against dealings in onion futures; punishment

(a) No contract for the sale of onions for future delivery shall be made on or subject to the rules of any board of trade in the United States. The terms used in this section shall have the same meaning as when used in this chapter.

(b) Any person who shall violate the provisions of this section shall be deemed guilty of a misdemeanor and upon conviction thereof be fined not more than $5,000.

(Pub. L. 85-839, § 1, Aug. 28, 1958, 72 Stat. 1013.)

CODIFICATION

Section was not enacted as part of the Commodity Exchange Act which comprises this chapter.

EFFECTIVE DATE

Section 2 of Pub. L. 85-839 provided that: "This Act [this section] shall take effect thirty days after its enactment [Aug. 28, 1958]."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2 of this title.

§ 13a. Nonenforcement of rules of government or other violations; cease and desist orders; fines and penalties; imprisonment; misdemeanor; separate offenses

If any contract market is not enforcing or has not enforced its rules of government made a condition of its designation as set forth in section 7 of this title, or if any contract market, or any director, officer, agent, or employee of any contract market otherwise is violating or has violated any of the provisions of this chapter or any of the rules, regulations, or orders of the Commission thereunder, the Commission may, upon notice and hearing and subject to appeal as in other cases provided for in paragraph (a) of section 8 of this title, make and enter an order directing that such contract market, director, officer, agent, or employee shall cease and desist from such violation, and assess a civil penalty of not more than $100,000 for each such violation. If such contract market, director, officer, agent, or employee, after the entry of such a cease and desist order and the lapse of the period allowed for appeal of such order or after the affirmance of such order, shall fail or refuse to obey or comply with such order, such contract market, director, officer, agent, or employee shall be guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than $100,000 or imprisoned for not less than six months nor more than one year, or both. Each day during which such failure or refusal to obey such cease and desist order continues shall be deemed a separate offense. If the offending contract market or other person upon whom such penalty is imposed, after the lapse of the period allowed for appeal or after the affirmance of such penalty, shall fail to pay such penalty, the Commission shall refer the matter to the Attorney General who shall recover such penalty by action in the appropriate United States district court. In determining the amount of the money penalty assessed under this section, the Commission shall consider the appropriateness of such penalty to the net worth of the offending person and the gravity of the offense, and in the case of a contract market shall further consider whether the amount of the penalty will materially impair the contract market's ability to carry on its operations and duties.

(Sept. 21, 1922, ch. 369, § 6b, as added June 15, 1936, ch. 545, § 9, 49 Stat. 1500, and amended Feb. 19, 1968, Pub. L. 90-258, § 18, 82 Stat. 31; Oct. 23, 1974, Pub. L. 93-463, title II, § 212(b), 88 Stat. 1403.)

AMENDMENTS

1974—Pub. L. 93-463 added provision for the assessment of a civil penalty of not more than $100,000 for each violation, substituted "not more than $100,000" for "not less than $500 nor more than $10,000" as the permissible range of fines imposed, added provisions for the enforcement of a penalty, and substituted "orders of the Commission" for "orders of the Secretary of Agriculture or the commission".

1968—Pub. L. 90-258 revised the provisions to clarify application only to boards of trade designated as contract markets, to include as grounds for cease and desist orders failure to enforce the market's rules of government made a condition of its designation and violation of rules or regulations of the commission or orders of the Secretary, and to authorize such orders

in conjunction with a suspension or revocation of designation as a contract market rather than in lieu of suspension or revocation.

EFFECTIVE DATE OF 1974 AMENDMENT

For effective date of amendment by Pub. L. 93-463, see section 418 of Pub. L. 93-463, set out as a note under section 2 of this title.

EFFECTIVE DATE OF 1968 AMENDMENT

Amendment by Pub. L. 90-258 effective 120 days after Feb. 19, 1968, see section 28 of Pub. L. 90-258, set out as a note under section 2 of this title.

EFFECTIVE DATE

See note set out under section 1 of this title.

CROSS REFERENCES

Misdemeanor defined, see section 1 of Title 18, Crimes and Criminal Procedure.

§ 13a-1. Action to enjoin or restrain violations; compliance; writs and orders; jurisdiction and venue; process

Whenever it shall appear to the Commission that any contract market or other person has engaged, is engaging, or is about to engage in any act or practice constituting a violation of any provision of this chapter or any rule, regulation, or order thereunder, or is restraining trading in any commodity for future delivery, the Commission may bring an action in the proper district court of the United States or the proper United States court of any territory or other place subject to the jurisdiction of the United States, to enjoin such act or practice, or to enforce compliance with this chapter, or any rule, regulation or order thereunder, and said courts shall have jurisdiction to entertain such actions: *Provided,* That no restraining order or injunction for violation of the provisions of this chapter shall be issued ex parte by said court. Upon a proper showing a permanent or temporary injunction or restraining order shall be granted without bond. Upon application of the Commission, the district courts of the United States and the United States courts of any territory or other place subject to the jurisdiction of the United States shall also have jurisdiction to issue writs of mandamus, or orders affording like relief, commanding any person to comply with the provisions of this chapter or any rule, regulation, or order of the Commission thereunder, including the requirement that such person take such action as is necessary to remove the danger of violation of this chapter or any such rule, regulation, or order: *Provided,* That no such writ of mandamus, or order affording like relief, shall be issued ex parte. Any action under this section may be brought in the district wherein the defendant is found or is an inhabitant or transacts business or in the district where the act or practice occurred, is occurring, or is about to occur, and process in such cases may be served in any district in which the defendant is an inhabitant or wherever the defendant may be found. In lieu of bringing actions itself pursuant to this section, the Commission may request the Attorney General to bring the action. Where the Commission elects to bring the action, it shall inform the Attorney General of such suit and advise him of subsequent developments.

(Sept. 21, 1922, ch. 369, § 6c, as added Oct. 23, 1974, Pub. L. 93-463, title II, § 211, 88 Stat. 1402.)

EFFECTIVE DATE

For effective date of section, see section 418 of Pub. L. 93-463, set out as a note under section 2 of this title.

§ 13b. Manipulations or other violations; cease and desist orders against persons other than contract markets; punishment; misdemeanor or felony; separate offenses

If any person (other than a contract market) is manipulating or attempting to manipulate or has manipulated or attempted to manipulate the market price of any commodity, in interstate commerce, or for future delivery on or subject to the rules of any contract markets, or otherwise is violating or has violated any of the provisions of this chapter or of the rules, regulations, or orders of the Commission thereunder, the Commission may, upon notice and hearing, and subject to appeal as in other cases provided for in section 9 of this title, make and enter an order directing that such person shall cease and desist therefrom and, if such person thereafter and after the lapse of the period allowed for appeal of such order or after the affirmance of such order, shall fail or refuse to obey or comply with such order, such person shall be guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than $100,000, or imprisoned for not less than six months nor more than one year, or both, except that if such failure or refusal to obey or comply with such order involves any offense within paragraph (a) or (b) of section 13 of this title, such person shall be guilty of a felony and, upon conviction thereof, shall be subject to the penalties of said paragraph (a) or (b): *Provided,* That any such cease and desist order against any respondent in any case of manipulation of, or attempt to manipulate, the price of any commodity shall be issued only in conjunction with an order issued against such respondent under section 9 of this title. Each day during which such failure or refusal to obey or comply with such order continues shall be deemed a separate offense.

(Sept. 21, 1922, ch. 369, § 6(c), as added Feb. 19, 1968, Pub. L. 90-258, § 17, 82 Stat. 31, and amended Oct. 23, 1974, Pub. L. 93-463, title I, § 103(a), (b), title II, § 212(c), 88 Stat. 1392, 1404.)

CODIFICATION

Section is composed of par. (c) of section 6 of act Sept. 21, 1922. The first par. and par. (a) of section 6 are classified to section 8 of this title. Par. (b) of section 6 is classified to sections 9 and 15 of this title. Par. (d) of section 6 is classified to section 9a of this title.

AMENDMENTS

1974—Pub. L. 93-463 substituted "not more than $100,000" for "not less than $500 nor more than $10,000" and substituted "Commission" for "Secretary of Agriculture or the Commission" and "Secretary".

EFFECTIVE DATE OF 1974 AMENDMENT

For effective date of amendment by Pub. L. 93-463, see section 418 of Pub. L. 93-463, set out as a note under section 2 of this title.

EFFECTIVE DATE

Section effective 120 days after Feb. 19, 1968, see section 28 of Pub. L. 90-258, set out as a note under section 2 of this title.

§ 13c. Responsibility as principal; minor violations

(a) Any person who commits, or who willfully aids, abets, counsels, commands, induces, or procures the commission of, a violation of any of the provisions of this chapter, or any of the rules; regulations, or orders issued pursuant to this chapter, or who acts in combination or concert with any other person in any such violation, or who willfully causes an act to be done or omitted which if directly performed or omitted by him or another would be a violation of the provisions of this chapter or any of such rules, regulations, or orders may be held responsible in administrative proceedings under this chapter for such violation as a principal.

(b) Nothing in this chapter shall be construed as requiring the Commission to report minor violations of this chapter for prosecution, whenever it appears that the public interest does not require such action.

(Sept. 21, 1922, ch. 369, § 13, as added Feb. 19, 1968, Pub. L. 90-258, § 26, 82 Stat. 34, and amended Oct. 23, 1974, Pub. L. 93-463, title I, § 103(b), 88 Stat. 1392.)

AMENDMENTS

1974—Par. (b), Pub. L. 93-463 substituted "Commission" for "Secretary of Agriculture or the commission".

EFFECTIVE DATE OF 1974 AMENDMENT

For effective date of amendment by Pub. L. 93-463, see section 418 of Pub. L. 93-463, set out as a note under section 2 of this title.

EFFECTIVE DATE

Section effective 120 days after Feb. 19, 1968, see section 28 of Pub. L. 90-258, set out as a note under section 2 of this title.

§ 14. Omitted

CODIFICATION

Section, act Sept. 21, 1922, ch. 369, § 11, 42 Stat. 1003, which provided that violations of this chapter occurring before Nov. 1, 1922, should not be punishable, has been omitted as obsolete.

§ 15. Provisions of Interstate Commerce Act made applicable

For the purpose of securing effective enforcement of the provisions of this chapter, and for the purpose of any investigation or proceeding under this chapter, the provisions, including penalties, of section 12 of title 49, relating to the attendance and testimony of witnesses and the production of documentary evidence, are made applicable to the power, jurisdiction, and authority of the Commission, and any Administrative Law Judge designated pursuant to the provisions of this chapter, and to any person subject thereto.

(Sept. 21, 1922, ch. 369, § 6(b), 42 Stat. 1001; June 15, 1936, ch. 545, § 8(e)-(g), 49 Stat. 1499; June 16, 1955, ch. 151, 69 Stat. 160; Oct. 15, 1970, Pub. L. 91-452, title II, § 202, 84 Stat. 928; Oct. 23, 1974, Pub. L. 93-463, title I, § 103(d), title IV, § 408(b), 88 Stat. 1392, 1414.)

CODIFICATION

Section 9 of this title was derived from par. (b) of section 6 of the Grain Futures Act as originally enacted, act Sept. 21, 1922, ch. 369. This par. (b) prior to its incorporation into the Code contained a provision as to finality of judgements and review by the Supreme Court and is now covered by section 1254 of Title 28, Judiciary and Judicial Procedure. A further provision of par. (b) is contained in this section. The first par. and par. (a) of section 6 are classified to section 8 of this title. Pars. (c) and (d) of section 6 are classified to sections 13b and 9a of this title, respectively.

AMENDMENTS

1974—Pub. L. 93-463 struck out "the Secretary of Agriculture (or any person designated by him)," following "jurisdiction, and authority of" and substituted "Administrative Law Judge" for "referee".

1970—Pub. L. 91-452 struck out references to sections 46-48 of Title 49, and provisions relating to the immunity of witnesses.

1955—Act June 16, 1955, extended subpoena power to investigations.

1936—Act June 15, 1936, § 8(e), (f), substituted "sections 12 and 46-48 of Title 49" for "section 12 of Title 49".

Act June 15, 1936, § 8(g), substituted "and" for "or" following "commission".

EFFECTIVE DATE OF 1974 AMENDMENT

For effective date of amendment of Pub. L. 93-463, see section 418 of Pub. L. 93-463, set out as a note under section 2 of this title.

EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by Pub. L. 91-452 effective on the sixtieth day following the date of enactment of Pub. L. 91-452, which was approved Oct. 15, 1970, see section 260 of Pub. L. 91-452, set out as a note under section 6001 of Title 18, Crimes and Criminal Procedure.

EFFECTIVE DATE OF 1936 AMENDMENT

Amendment effective 90 days after June 15, 1936, see note under section 1 of this title.

SAVINGS PROVISION

Amendment by Pub. L. 91-452 not to affect any immunity to which any individual is entitled under this section by reason of any testimony given before the sixtieth day following Oct. 15, 1970, see section 260 of Pub. L. 91-452, set out as a note under section 6001 of Title 18, Crimes and Criminal Procedure.

CROSS REFERENCES

Immunity of witnesses, see section 6001 et seq. of Title 18, Crimes and Criminal Procedure.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 12 of this title.

§ 15a. Leverage contracts for gold and silver

(a) No person shall offer to enter into, enter into, or confirm the execution of any transaction for the delivery of silver bullion, gold bullion, or bulk silver coins or bulk gold coins, pursuant to a standardized contract commonly known to the trade as a margin account, margin contract, leverage account, or leverage contract contrary to any rule, regulation, or order of the Commodity Futures Trading Commission designed to insure the financial solvency of the transaction or prevent manipulation or fraud: *Provided,* That such rule, regulation, or order may be made only after notice and opportunity for hearing. If the Commission determines that any such transaction is a contract for future de-

livery within the meaning of this chapter, such transaction shall be regulated in accordance with the provisions of this chapter.

(b) The provisions of section 13(c) of this title shall be applicable with respect to persons who violate the provisions of this section.

(Pub. L. 93-463, title II, § 217, Oct. 23, 1974, 88 Stat. 1405.)

CODIFICATION

Section was enacted as part of the Commodity Futures Trading Commission Act of 1974, and not as part of the Commodity Exchange Act which comprises this chapter.

EFFECTIVE DATE

For effective date of section, see section 418 of Pub. L. 93-463, set out as a note under section 2 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2 of this title.

§ 15b. Cotton futures contracts

(a) Short title

This section may be cited as the "United States Cotton Futures Act".

(b) Repeal of tax on cotton futures

Subchapter D of chapter 39 of title 26 (relating to tax on cotton futures) is repealed.

(c) Definitions

For purposes of this section—

(1) Cotton futures contract

The term "cotton futures contract" means any contract of sale of cotton for future delivery made at, on, or in any exchange, board of trade, or similar institution or place of business which has been designated a "contract market" by the Commodity Futures Trading Commission pursuant to the Commodity Exchange Act [7 U.S.C. 1 et seq.] and the term "contract of sale" as so used shall be held to include sales, agreements of sale, and agreements to sell.

(2) Future delivery

The term "future delivery" shall not include any cash sale of cotton for deferred shipment or delivery.

(3) Person

The term "person" includes an individual, trust, estate, partnership, association, company, or corporation.

(4) Secretary

The term "Secretary" means the Secretary of Agriculture of the United States.

(5) Standards

The term "standards" means the official cotton standards of the United States established by the Secretary pursuant to the United States Cotton Standards Act, as amended [7 U.S.C. 51 et seq.].

(d) Bona fide spot markets and commercial differences

(1) Definition

For purposes of this section, the only markets which shall be considered bona fide spot markets shall be those which the Secretary shall, from time to time, after investigation, determine and designate to be such, and of which he shall give public notice.

(2) Determination

In determining, pursuant to the provisions of this section, what markets are bona fide spot markets, the Secretary is directed to consider only markets in which spot cotton is sold in such volume and under such conditions as customarily to reflect accurately the value of middling cotton and the differences between the prices or values of middling cotton and of other grades of cotton for which standards shall have been established by the Secretary; except that if there are not sufficient places, in the markets of which are made bona fide sales of spot cotton of grades for which standards are established by the Secretary, to enable him to designate at least five spot markets in accordance with subsection (f)(3) of this section, he shall, from data as to spot sales collected by him, make rules and regulations for determining the actual commercial differences in the value of spot cotton of the grades established by him as reflected by bona fide sales of spot cotton, of the same or different grades, in the market selected and designated by him, from time to time, for that purpose, and in that event differences in value of cotton of various grades involved in contracts made pursuant to subsection (f)(1) and (2) of this section shall be determined in compliance with such rules and regulations. It shall be the duty of any person engaged in the business of dealing in cotton, when requested by the Secretary or any agent acting under his instructions, to answer correctly to the best of his knowledge, under oath or otherwise, all questions touching his knowledge of the number of bales, the classification, the price or bona fide price offered, and other terms of purchase or sale, of any cotton involved in any transaction participated in by him, or to produce all books, letters, papers, or documents in his possession or under his control relating to such matter.

(3) Withholding information

Any person engaged in the business of dealing in cotton who shall, within a reasonable time prescribed by the Secretary or any agent acting under his instructions, willfully fail or refuse to answer questions or to produce books, letters, papers, or documents, as required under paragraph (2) of this subsection, or who shall willfully give any answer that is false or misleading, shall, upon conviction thereof, be fined not more than $500.

(e) Form and validity of cotton futures contracts

Each cotton futures contract shall be a basis grade contract, or a tendered grade contract, or a specific grade contract as specified in subsections (f), (g), or (h) of this section and shall be in writing plainly stating, or evidenced by written memorandum showing, the terms of such contract, including the quantity of the cotton involved and the names and addresses of the seller and buyer in such contract, and shall be signed by the party to be charged, or by his agent in his behalf. No cotton futures contract which does not conform to such requirements shall be enforceable by, or on behalf of, any party to such contract or his privies.

(f) Basis grade contracts

(1) Conditions

Each basis grade cotton futures contract shall comply with each of the following conditions:

(A) Conformity with regulations.—Conform to the regulations made pursuant to this section.

(B) Specification of grade, price, and dates of sale and settlement.—Specify the basis grade for the cotton involved in the contract, which shall be one of the grades for which standards are established by the Secretary, except grades prohibited from being delivered on a contract made under this subsection by subparagraph (E), the price per pound at which the cotton of such basis grade is contracted to be bought or sold, the date when the purchase or sale was made, and the month or months in which the contract is to be fulfilled or settled; except that middling shall be deemed the basis grade incorporated into the contract if no other basis grade be specified either in the contract or in the memorandum evidencing the same.

(C) Provision for delivery of standard grades only.—Provide that the cotton dealt with therein or delivered thereunder shall be of or within the grades for which standards are established by the Secretary except grades prohibited from being delivered on a contract made under this subsection by subparagraph (E) and no other grade or grades.

(D) Provision for settlement on basis of actual commercial differences.—Provide that in case cotton of grade other than the basis grade be tendered or delivered in settlement of such contract, the differences above or below the contract price which the receiver shall pay for such grades other than the basis grade shall be the actual commercial differences, determined as hereinafter provided.

(E) Prohibition of delivery of inferior cotton.—Provide that cotton that, because of the presence of extraneous matter of any character, or irregularities or defects, is reduced in value below that of low middling, or cotton that is below the grade of low middling, or, if tinged, cotton that is below the grade of strict middling, or, if yellow stained, cotton that is below the grade of good middling, the grades mentioned being of the official cotton standards of the United States, or cotton that is less than seven-eighths of an inch in length of staple, or cotton of perished staple, or of immature staple, or cotton that is "gin cut" or reginned, or cotton that is "repacked" or "false packed" or "mixed packed" or "water packed", shall not be delivered on, under, or in settlement of such contract.

(F) Provisions for tender in full, notice of delivery date, and certificate of grade.—Provide that all tenders of cotton under such contract shall be the full number of bales involved therein, except that such variations of the number of bales may be permitted as is necessary to bring the total weight of the cotton tendered within the provisions of the contract as to weight; that, on the fifth business day prior to delivery, the person making the tender shall give to the person receiving the same written notice of the date of delivery, and that, on or prior to the date so fixed for delivery, and in advance of final settlement of the contract, the person making the tender shall furnish to the person receiving the same a written notice or certificate stating the grade of each individual bale to be delivered and, by means of marks or numbers, identifying each bale with its grade.

(G) Provision for tender and settlement in accordance with government classification.—Provide that all tenders of cotton and settlements therefor under such contract shall be in accordance with the classification thereof made under the regulations of the Secretary by such officer or officers of the Government as shall be designated for the purpose, and the costs of such classification shall be fixed, assessed, collected, and paid as provided in such regulations. The Secretary is authorized to prescribe regulations for carrying out the purposes of this subparagraph and the certificates of the officers of the Government as to the classification of any cotton for the purposes of this subparagraph shall be accepted in the courts of the United States in all suits between the parties to such contract, or their privies, as prima facie evidence of the true classification of the cotton involved.

(2) Incorporation of conditions in contracts

The provisions of paragraphs (1)(C), (D), (E), (F), and (G) shall be deemed fully incorporated into any such contract if there be written or printed thereon, or on the memorandums evidencing the same, at or prior to the time the same is signed, the phrase "Subject to United States Cotton Futures Act, subsection (f)."

(3) Delivery allowances

For the purpose of this subsection, the differences above or below the contract price which the receiver shall pay for cotton of grades above or below the basic grade [1] in the settlement of a contract of sale for the future delivery of cotton shall be determined by the actual commercial differences in value thereof upon the sixth business day prior to the day fixed, in accordance with paragraph (1)(F), for the delivery of cotton on the contract, established by the sale of spot cotton in the spot markets of not less than five places designated for the purpose from time to time by the Secretary, as such values were established by the sales of spot cotton, in such designated five or more markets. For purposes of this paragraph, such values in the such spot markets shall be based upon the standards for grades of cotton established by the Secretary. Whenever the value of one grade is to be determined from the sale or sales of spot cotton of another grade or grades, such value shall be fixed in accordance with rules and regulations which shall be prescribed for the purpose by the Secretary.

[1] So in original.

(g) Tendered grade contracts

(1) Conditions

Each tendered grade cotton future contract shall comply with each of the following conditions:

(A) Compliance with subsection (f).—Comply with all the terms and conditions of subsection (f) of this section not inconsistent with this subsection; and

(B) Provision for contingent specific performance.—Provide that, in case cotton of grade or grades other than the basis grade specified in the contract shall be tendered in performance of the contract, the parties to such contract may agree, at the time of the tender, as to the price of the grade or grades so tendered, and that if they shall not then agree as to such price, then, and in that event, the buyer of said contract shall have the right to demand the specific fulfillment of such contract by the actual delivery of cotton of the basis grade named therein and at the price specified for such basis grade in said contract.

(2) Incorporation of conditions in contract

Contracts made in compliance with this subsection shall be known as "subsection (g) Contracts". The provisions of this subsection shall be deemed fully incorporated into any such contract if there be written or printed thereon, or on the memorandum evidencing the same, at or prior to the time the same is signed, the phrase "Subject to United States Cotton Futures Act, subsection (g)".

(3) Application of subsection

Nothing in this subsection shall be so construed as to authorize any contract in which, or in the settlement of or in respect to which, any device or arrangement whatever is resorted to, or any agreement is made, for the determination or adjustment of the price of the grade or grades tendered other than the basis grade specified in the contract by any "fixed difference" system, or by arbitration, or by any other method not provided for by this section.

(h) Specific grade contracts

(1) Conditions

Each specific grade cotton futures contract shall comply with each of the following conditions:

(A) Conformity with rules and regulations.—Conform to the rules and regulations made pursuant to this section.

(B) Specification of grade, price, dates of sale and delivery.—Specifiy the grade, type, sample, or description of the cotton involved in the contract, the price per pound at which such cotton is contracted to be bought or sold, the date of the purchase or sale, and the time when shipment or delivery of such cotton is to be made.

(C) Prohibition of delivery of other than specified grade.—Provide that cotton of or within the grade or of the type, or according to the sample or description, specified in the contract shall be delivered thereunder, and that no cotton which does not conform to the type, sample, or description, or which is not of or within the grade specified in the contract shall be tendered or delivered thereunder.

(D) Provision for specific performance.—Provide that the delivery of cotton under the contract shall not be effected by means of "setoff" or "ring" settlement, but only by the actual transfer of the specified cotton mentioned in the contract.

(2) Incorporation of conditions in contract

The provisions of paragraphs (1)(A), (C), and (D) shall be deemed fully incorporated into any such contract if there be written or printed thereon, or on the document or memorandum evidencing the same, at or prior to the time the same is entered into, the words "Subject to United States Cotton Futures Act, subsection (h)".

(3) Application of subsection

This subsection shall not be construed to apply to any contract of sale made in compliance with subsection (f) or (g) of this section.

(i) Liability of principal for acts of agent

When construing and enforcing the provisions of this section, the act, omission, or failure of any official, agent, or other person acting for or employed by any association, partnership, or corporation within the scope of his employment or office shall, in every case, also be deemed the act, omission, or failure of such association, partnership, or corporation, as well as that of the person.

(j) Regulations

The Secretary is authorized to make such regulations with the force and effect of law as he determines may be necessary to carry out the provisions of this section and the powers vested in him by this section.

(k) Violations

Any person who knowingly violates any regulation made in pursuance of this section, shall, upon conviction thereof, be fined not less than $100 nor more than $500, for each violation thereof, in the discretion of the court, and, in case of natural persons, may, in addition be punished by imprisonment for not less than 30 days nor more than 90 days, for each violation, in the discretion of the court except that this subsection shall not apply to violations subject to subsection (d)(3) of this section.

***(l)* Applicability to contracts prior to effective date**

The provisions of this section shall not apply to any cotton futures contract entered into prior to the effective date of this section or to any act or failure to act by any person prior to such effective date and all such prior contracts, acts or failure to act shall continue to be governed by the applicable provisions of the Internal Revenue Code of 1954 as in effect prior to the enactment of this section. All designations of bona fide spot markets and all rules and regulations issued by the Secretary pursuant to the applicable provisions of the Internal Revenue Code of 1954 which were in effect on the effective date of this section, shall remain fully effective as designations and regulations under this section until superseded, amended, or terminated by the Secretary.

(m) Authorization

There are authorized to be appropriated such sums as may be necessary to carry out this section.

(Pub. L. 94-455, title XIX, § 1952(a)-(m), Oct. 4, 1976, 90 Stat. 1841-1846.)

REFERENCES IN TEXT

The Commodity Exchange Act, referred to in subsec. (c)(1), is act Mar. 4, 1927, ch. 508, 44 Stat. 1423, as amended, which is classified generally to chapter 1 (§ 1 et seq.) of this title. For complete classification of this Act to the Code, see Tables volume.

The United State Cotton Standards Act, as amended, referred to in subsec. (c)(5), is act Mar. 4, 1923, ch. 288, 42 Stat. 1517, as amended, which is classified generally to chapter 2 (§ 51 et seq.) of this title. For complete classification of this Act to the Code, see Tables volume.

The Internal Revenue Code of 1954, referred to in subsec. (*l*), is classified to Title 26, Internal Revenue Code.

CODIFICATION

Section was enacted as part of the Tax Reform Act of 1976, and not as part of the Commodity Exchange Act which comprises this chapter.

EFFECTIVE DATE

Section 1952(*o*) of Pub. L. 94-455 provided that: "The provisions of this section [enacting this section, amending section 6808 of Title 26, Internal Revenue Code, and repealing sections 7233 and 7263, subchapter D of chapter 39, and subchapter E of chapter 76 of Title 26] shall take effect on the 90th day after the date of enactment of this Act [Oct. 4, 1976]."

§ 16. Commission operations

(a) Cooperation with other agencies

The Commission may cooperate with any Department or agency of the Government, any State, territory, district, or possession, or department, agency, or political subdivision thereof, or any person.

(b) Employment of investigators, experts, Administrative Law Judges, consultants, clerks, and other personnel; contracts

The Commission shall have the authority to employ such investigators, special experts, Administrative Law Judges, clerks, and other employees as it may from time to time find necessary for the proper performance of its duties and as may be from time to time appropriated for by Congress. The Commission may employ experts and consultants in accordance with section 3109 of title 5, and compensate such persons at rates not in excess of the maximum daily rate prescribed for GS-18 under section 5332 of title 5. The Commission shall also have authority to make and enter into contracts with respect to all matters which in the judgment of the Commission are necessary and appropriate to effectuate the purposes and provisions of this chapter, including, but not limited to, the rental of necessary space at the seat of Government and elsewhere.

(c) Expenses

All of the expenses of the Commissioners, including all necessary expenses for transportation incurred by them while on official business of the Commission, shall be allowed and paid on the presentation of itemized vouchers therefor approved by the Commission.

(d) Authorization of appropriations

There are hereby authorized to be appropriated to carry out the provisions of this chapter such sums as may be required for the fiscal year ending June 30, 1975, for the fiscal year ending June 30, 1976, for the fiscal year ending June 30, 1977, and for the fiscal year ending June 30, 1978.

(Sept. 21, 1922, ch. 369, § 12, 42 Stat. 1003; Oct. 23, 1974, Pub. L. 93-463, title I, § 101(b), 88 Stat. 1391.)

AMENDMENTS

1974—Pub. L. 93-463 designated existing unlettered provisions as pars. (a) to (d) and in pars. (a) to (d) as so designated substituted "Commission" for "Secretary of Agriculture", added provisions authorizing the expenditure of funds for expenses upon the presentation of itemized vouchers therefor approved by the Commission, substituted provisions authorizing appropriations specifically for fiscal years ending June 30, 1975, 1976, 1977, and 1978, for provisions making a general authorization of appropriations without a fiscal year limitation, and added authorization to enter into contracts and compensate experts and consultants in accordance with section 3109 of Title 5 at rates not in excess of the maximum daily rate prescribed for GS-18 under section 5332 of Title 5.

EFFECTIVE DATE OF 1974 AMENDMENT

For effective date of amendment by Pub. L. 93-463, see section 418 of Pub. L. 93-463, set out as a note under section 2 of this title.

§ 17. Separability of provisions

If any provision of this chapter or the application thereof to any person or circumstances is held invalid, the validity of the remainder of the chapter and of the application of such provision to other persons and circumstances shall not be affected thereby.

(Sept. 21, 1922, ch. 369, § 10, 42 Stat. 1003.)

§ 17a. Separability of 1936 amendment

If any provision of the act of June 15, 1936, ch. 545, 49 Stat. 1491, which amends this chapter, or the application thereof to any person or circumstances is held invalid, the provisions of the section of this chapter which is amended by such provision of said act shall apply to such person or circumstances. No proceeding shall be abated by reason of any amendment to this chapter made by said act but shall be disposed of pursuant to said act.

(June 15, 1936, ch. 545, § 12, 49 Stat. 1501.)

CODIFICATION

Section is not part of the Commodity Exchange Act which comprises this chapter.

EFFECTIVE DATE

See note set out under section 1 of this title.

§ 17b. Separability of 1968 amendment

If any provision of this Act or the application thereof to any person or circumstances is held invalid, the validity of the remainder of the Act and the application of such provision to other persons or circumstances shall not be affected thereby, and the provisions of the section of this chapter which is amended by such provision of this Act shall apply to such person or

circumstances. Pending proceedings shall not be abated by reason of any provision of this Act but shall be disposed of pursuant to the provisions of this chapter, in effect prior to the effective date of this Act.

(Pub. L. 90-258, § 27, Feb. 19, 1968, 82 Stat. 34.)

REFERENCES IN TEXT

This Act, referred to in text, is Pub. L. 90-258, Feb. 19, 1968, 82 Stat. 34. For classification of this Act to the Code, see tables volume.

Effective date of this Act, referred to in text, as one hundred and twenty days after Feb. 19, 1968, see section 28 of Pub. L. 90-258, set out as a note under section 2 of this title.

CODIFICATION

Section is not part of the Commodity Exchange Act which comprises this chapter.

§ 18. Complaints against registered persons

(a) Petition

Any person complaining of any violation of any provision of this chapter or any rule, regulation, or order thereunder by any person registered under section 6d, 6e, 6j or 6m of this title may, at any time within two years after the cause of action accrues, apply to the Commission by petition, which shall briefly state the facts, whereupon, if, in the opinion of the Commission, the facts therein contained warrant such action, a copy of the complaint thus made shall be forwarded by the Commission to the respondent, who shall be called upon to satisfy the complaint, or to answer it in writing, within a reasonable time to be prescribed by the Commission.

(b) Investigation and hearing

If there appear to be, in the opinion of the Commission, any reasonable grounds for investigating any complaint made under this section, the Commission shall investigate such complaint and may, if in its opinion the facts warrant such action, have said complaint served by registered mail or by certified mail or otherwise on the respondent and afford such person an opportunity for a hearing thereon before an Administrative Law Judge designated by the Commission in any place in which the said person is engaged in business: *Provided*, That in complaints wherein the amount claimed as damages does not exceed the sum of $2,500, a hearing need not be held and proof in support of the complaint and in support of the respondent's answer may be supplied in the form of depositions or verified statements of fact.

(c) Determination

After opportunity for hearing on complaints where the damages claimed exceed the sum of $2,500 has been provided or waived and on complaints where damages claimed do not exceed the sum of $2,500 not requiring hearing as provided herein, the Commission shall determine whether or not the respondent has violated any provision of this chapter or any rule, regulation, or order thereunder.

(d) Bond requirement when complainant is nonresident; waiver

In case a complaint is made by a nonresident of the United States, the complainant shall be required, before any formal action is taken on his complaint, to furnish a bond in double the amount of the claim conditioned upon the payment of costs, including a reasonable attorney's fee for the respondent if the respondent shall prevail, and any reparation award that may be issued by the Commission against the complainant on any counterclaim by respondent: *Provided*, That the Commission shall have authority to waive the furnishing of a bond by a complainant who is a resident of a country which permits the filing of a complaint by a resident of the United States without the furnishing of a bond.

(e) Reparations

If after a hearing on a complaint made by any person under paragraph (a) of this section, or without hearing as provided in paragraphs (b) and (c) of this section, or upon failure of the party complained against to answer a complaint duly served within the time prescribed, or to appear at a hearing after being duly notified, the Commission determines that the respondent has violated any provision of this chapter, or any rule, regulation, or order thereunder, the Commission shall, unless the offender has already made reparation to the person complaining, determine the amount of damage, if any, to which such person is entitled as a result of such violation and shall make an order directing the offender to pay to such person complaining such amount on or before the date fixed in the order. If, after the respondent has filed his answer to the complaint, it appears therein that the respondent has admitted liability for a portion of the amount claimed in the complaint as damages, the Commission under such rules and regulations as it shall prescribe, unless the respondent has already made reparation to the person complaining, may issue an order directing the respondent to pay to the complainant the undisputed amount on or before the date fixed in the order, leaving the respondent's liability for the disputed amount for subsequent determination. The remaining disputed amount shall be determined in the same manner and under the same procedure as it would have been determined if no order had been issued by the Commission with respect to the undisputed sum.

(f) Enforcement of reparation award

If any person against whom an award has been made does not pay the reparation award within the time specified in the Commission's order, the complainant, or any person for whose benefit such order was made, within three years of the date of the order, may file a certified copy of the order of the Commission, in the district court of the United States for the district in which he resides or in which is located the principal place of business of the respondent, for enforcement of such reparation award by appropriate orders. The orders, writs, and processes of such district court may in such case run, be served, and be returnable anywhere in the United States. The petitioner shall not be liable for costs in the district court, nor for costs at any subsequent state of the proceedings, unless they accrue upon his appeal. If the petitioner finally prevails, he shall be allowed a reasonable attorney's fee, to be taxed

and collected as a part of the costs of the suit. Subject to the right of appeal under paragraph (g) of this section, an order of the Commission awarding reparations shall be final and conclusive.

(g) Review

Any order of the Commission entered hereunder shall be reviewable on petition of any party aggrieved thereby, by the United States Court of Appeals for any circuit in which a hearing was held, or if no hearing was held, any circuit in which the appellee is located, under the procedure provided in section 9 of this title. Such appeal shall not be effective unless within 30 days from and after the date of the reparation order the appellant also files with the clerk of the court a bond in double the amount of the reparation awarded against the appellant conditioned upon the payment of the judgment entered by the court, plus interest and costs, including a reasonable attorney's fee for the appellee, if the appellee shall prevail. Such bond shall be in the form of cash, negotiable securities having a market value at least equivalent to the amount of bond prescribed, or the undertaking of a surety company on the approved list of sureties issued by the Treasury Department of the United States. The appellee shall not be liable for costs in said court. If the appellee prevails, he shall be allowed a reasonable attorney's fee to be taxed and collected as a part of his costs.

(h) Penalty

Unless the registrant against whom a reparation order has been issued shows to the satisfaction of the Commission within fifteen days from the expiration of the period allowed for compliance with such order that he has either taken an appeal as herein authorized or has made payment in full as required by such order, he shall be prohibited from trading on all contract markets and his registration shall be suspended automatically at the expiration of such fifteen-day period until he shows to the satisfaction of the Commission that he has paid the amount therein specified with interest thereon to date of payment: *Provided,* That if on appeal the appellee prevails or if the appeal is dismissed the automatic prohibition against trading and suspension of registration shall become effective at the expiration of thirty days from the date of judgment on the appeal, but if the judgment is stayed by a court of competent jurisdiction the suspension shall become effective ten days after the expiration of such stay, unless prior thereto the judgment of the court has been satisfied.

(i) Effective date

The provisions of this section shall not become effective until fifteen months after October 23, 1974: *Provided,* That claims which arise within one year immediately prior to the effective date of this section may be heard by the Commission after such fifteen months period.

(Sept. 21, 1922, ch. 369, § 14, as added Oct. 23, 1974, Pub. L. 93-463, title I, § 106, 88 Stat. 1393, and amended Apr. 16, 1975, Pub. L. 94-16, § 3, 89 Stat. 77.)

AMENDMENTS

1975—Subsec. (i). Pub. L. 94-16 substituted "fifteen months" for "one year" in two instances, and "one year" for "nine months".

§ 19. Antitrust laws; anticompetitive means

The commission shall take into consideration the public interest to be protected by the antitrust laws and endeavor to take the least anticompetitive means of achieving the objectives of this chapter, as well as the policies and purposes of this chapter, in issuing any order or adopting any Commission rule or regulation, or in requiring or approving any bylaw, rule, or regulation of a contract market or registered futures association established pursuant to section 21 of this title.

(Sept. 21, 1922, ch. 369, § 15, as added Oct. 23, 1974, Pub. L. 93-463, title I, § 107, 88 Stat. 1395.)

EFFECTIVE DATE

For effective date of section, see section 418 of Pub. L. 93-463, set out as a note under section 2 of this title.

§ 20. Market reports

(a) Information

The Commission may conduct regular investigations of the markets for goods, articles, services, rights, and interests which are the subject of futures contracts, and furnish reports of the findings of these investigations to the public on a regular basis. These market reports shall, where appropriate, include information on the supply, demand, prices, and other conditions in the United States and other countries with respect to such goods, articles, services, rights, interests, and information respecting the futures markets.

(b) Avoidance of duplication

The Commission shall cooperate with the Department of Agriculture and any other Department or Federal agency which makes market investigations to avoid unnecessary duplication of information-gathering activities.

(c) Furnishing of information; confidentiality

The Department of Agriculture and any other Department or Federal agency which has market information sought by the Commission shall furnish it to the Commission upon the request of any authorized employee of the Commission. The Commission shall abide by any rules of confidentiality applying to such information.

(d) Disclosure of business transactions, trade secrets, or names of customers

The Commission shall not disclose in such reports data and information which would separately disclose the business transactions of any person and trade secrets or names of customers except as provided in sections 12 to 12-3 of this title.

(Sept. 21, 1922, ch. 369, § 16, as added Oct. 23, 1974, Pub. L. 93-463, title IV, § 414, 88 Stat. 1414.)

EFFECTIVE DATE

For effective date of section, see section 418 of Pub. L. 93-463, set out as a note under section 2 of this title.

§ 21. Registered futures associations

(a) Registration statement

Any association of persons may be registered with the Commission as a registered futures association pursuant to paragraph (b) of this section, under the terms and conditions hereinafter provided in this section, by filing with the Commission for review and approval a registration statement in such form as the Commission may prescribe, setting forth the information, and accompanied by the documents, below specified:

(1) Data as to its organization, membership, and rules of procedure, and such other information as the Commission may by rules and regulations require as necessary or appropriate in the public interest; and

(2) Copies of its constitution, charter, or articles of incorporation or association, with all amendments thereto, and of its bylaws, and of any rules or instruments corresponding to the foregoing, whatever the name, hereinafter in this section collectively referred to as the "rules of the association".

(b) Standards for registration; Commission findings

An applicant association shall not be registered as a futures association unless the Commission finds, under standards established by the Commission, that—

(1) such association is in the public interest and that it will be able to comply with the provisions of this section and the rules and regulations thereunder and to carry out the purposes of this section;

(2) the rules of the association provide that any person registered under this chapter, contract market, or any other person designated pursuant to the rules of the Commission as eligible for membership may become a member of such association, except such as are excluded pursuant to subparagraph (3) and (4) of this paragraph, or a rule of the association permitted under this subparagraph. The rules of the association may restrict membership in such association on such specified basis relating to the type of business done by its members, or on such other specified and appropriate basis, as appears to the Commission to be necessary or appropriate in the public interest and to carryout the purpose of this section. Rules adopted by the association may provide that the association may, unless the Commission directs otherwise in cases in which the Commission finds it appropriate in the public interest so to direct, deny admission to, or refuse to continue in such association any person if (i) such person, whether prior or subsequent to becoming registered as such, or (ii) any person associated with in the meaning of "associated person" as set forth in section 6k of this title, whether prior or subsequent to becoming so associated, has been and is suspended or expelled from a contract market or has been and is barred or suspended from being associated with all members of such contract market, for violation of any rule of such contract market;

(3) the rules of the association provide that, except with the approval or at the direction of the Commission in cases in which the Commission finds it appropriate in the public interest so to approve or direct, no person shall be admitted to or continued in membership in such association, if such person—

(A) has been and is suspended or expelled from a registered futures association or from a contract market or has been and is barred or suspended from being associated with all members of such association or from being associated with all members of such contract market, for violation of any rule of such association or contract market which prohibits any act or transaction constituting conduct inconsistent with just and equitable principles of trade, or requires any act the omission of which constitutes conduct inconsistent with just and equitable principles of trade; or

(B) is subject to an order of the Commission denying, suspending, or revoking his registration pursuant to section 9 of this title, or expelling or suspending him from membership in a registered futures association or a contract market, or barring or suspending him from being associated with a futures commission merchant; or

(C) whether prior or subsequent to becoming a member, by his conduct while associated with a member, was a cause of any suspension, expulsion, or order of the character described in clause (A) or (B) which is in effect with respect to such member, and in entering such a suspension, expulsion, or order, the Commission or any such contract market or association shall have jurisdiction to determine whether or not any person was a cause thereof; or

(D) has associated with him any person who is known, or in the exercise of reasonable care should be known, to him to be a person who would be ineligible for admission to or continuance in membership under clause (A), (B), or (C) of this subparagraph.

(4) the rules of the association provide that, except with the approval or at the direction of the Commission in cases in which the Commission finds it appropriate in the public interest so to approve or direct, no person shall become a member and no natural person shall become a person associated with a member, unless such person is qualified to become a member or a person associated with a member in conformity with specified and appropriate standards with respect to the training, experience, and such other qualifications of such person as the association finds necessary or desirable, and in the case of a member, the financial responsibility of such a member. For the purpose of defining such standards and the application thereof, such rules may—

(A) appropriately classify prospective members (taking into account relevant matters, including type or nature of business done) and persons proposed to be associated with members.

(B) specify that all or any portion of such standard shall be applicable to any such class.

(C) require persons in any such class to pass examinations prescribed in accordance with such rules.

(D) provide that persons in any such class other than prospective members and partners, officers and supervisory employees (which latter term may be defined by such rules and as so defined shall include branch managers of members) of members, may be qualified solely on the basis of compliance with specified standards of training and such other qualifications as the association finds appropriate.

(E) provide that applications to become a member or a person associated with a member shall set forth such facts as the association may prescribe as to the training, experience, and other qualifications (including, in the case of an applicant for membership, financial responsibility) of the applicant and that the association shall adopt procedures for verification of qualifications of the applicant.

(F) require any class of persons associated with a member to be registered with the association in accordance with procedures specified by such rules (and any application or document supplemental thereto required by such rules of a person seeking to be registered with such association shall, for the purposes of section 9 of this title, be deemed an application required to be filed under this section).

(5) the rules of the association assure a fair representation of its members in the adoption of any rule of the association or amendment thereto, the selection of its officers and directors, and in all other phases of the administration of its affairs.

(6) the rules of the association provide for the equitable allocation of dues among its members, to defray reasonable expenses of administration.

(7) the rules of the association are designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, in general, to protect the public interest, and to remove impediments to and perfect the mechanism of free and open futures trading.

(8) the rules of the association provide that its members and persons associated with its members shall be appropriately disciplined, by expulsion, suspension, fine, censure, or being suspended or barred from being associated with all members, or any other fitting penalty, for any violation of its rules.

(9) the rules of the association provide a fair and orderly procedure with respect to the disciplining of members and persons associated with members and the denial of membership to any person seeking membership therein or the barring of any person from being associated with a member. In any proceeding to determine whether any member or other person shall be disciplined, such rules shall require that specific charges be brought; that such member or person shall be notified of, and be given an opportunity to defend against, such charges; that a record shall be kept; and that the determination shall include—

(A) a statement setting forth any act or practice in which such member or other person may be found to have engaged, or which such member or other person may be found to have omitted.

(B) a statement setting forth the specific rule or rules of the association of which any such act or practice, or omission to act, is deemed to be in violation.

(C) a statement whether the acts or practices prohibited by such rule or rules, or the omission of any act required thereby, are deemed to constitute conduct inconsistent with just and equitable principles of trade.

(D) a statement setting forth the penalty imposed.

In any proceeding to determine whether a person shall be denied membership or whether any person shall be barred from being associated with a member, such rules shall provide that the person shall be notified of, and be given an opportunity to be heard upon, the specific grounds for denial or bar which are under consideration; that a record shall be kept; and that the determination shall set forth the specific grounds upon which the denial or bar is based.

(10) the rules of the association provide for a fair and equitable procedure through arbitration or otherwise for the settlement of a customer's claims and grievances against any member or employee thereof: *Provided,* That (i) the use of such procedure by a customer shall be voluntary, (ii) the procedure shall not be applicable to any claim in excess of $5,000, (iii) the procedure shall not result in any compulsory payment except as agreed upon between the parties, and (iv) the term "customer" as used in this paragraph shall not include a futures commission merchant or a floor broker.

(c) Suspension of registration

The Commission may, after notice and opportunity for hearing, suspend the registration of any futures association if it finds that the rules thereof do not conform to the requirements of the Commission, and any such suspension shall remain in effect until the Commission issues an order determining that such rules have been modified to conform with such requirements.

(d) Fees and charges

In addition to the fees and charges authorized by section 12a(4) of this title, each person registered under this chapter, who is not a member of a futures association registered pursuant to this section, shall pay to the Commission such reasonable fees and charges as may be necessary to defray the costs of additional regulatory duties required to be performed by the Commission because such person is not a member of a registered futures association. The Commission shall establish such additional fees and charges by rules and regulations.

(e) Registered persons not members of registered associations

Any person registered under this chapter, who is not a member of a futures association registered pursuant to this section, in addition to the other requirements and obligations of this chapter and the regulations thereunder shall be subject to such other rules and regulations as the Commission may find necessary to protect the public interest and promote just and equitable principles of trade.

(f) Denial of registration

Upon filing of an application for registration pursuant to paragraph (a) of this section, the Commission may by order grant such registration if the requirements of this section are satisfied. If, after appropriate notice and opportunity for hearing, it appears to the Commission that any requirement of this section is not satisfied, the Commission shall by order deny such registration.

(g) Withdrawal from registration; notice of withdrawal

A registered futures association may, upon such reasonable notice as the Commission may deem necessary in the public interest, withdraw from registration by filing with the Commission a written notice of withdrawal in such form as the Commission may by rules and regulations prescribe.

(h) Commission review of disciplinary actions taken by registered futures associations

If any registered futures association takes any disciplinary action against any member thereof or any person associated with such a member or denies admission to any person seeking membership therein, or bars any person from being associated with a member, such action shall be subject to review by the Commission, on its own motion, or upon application by any person aggrieved thereby filed within thirty days after such action has been taken or within such longer period as the Commission may determine. Application to the Commission for review, or the institution of review by the Commission on its own motion, shall operate as a stay of such action until an order is issued upon such review pursuant to paragraph (k) of this section unless the Commission otherwise orders, after notice and opportunity for hearing on the question of a stay (which hearing may consist solely of affidavits and oral arguments).

(i) Notice; hearing; findings; cancellation, reduction, or remission of penalties

(1) In a proceeding to review disciplinary action taken by a registered futures association against a member thereof or a person associated with a member, if the Commission, after appropriate notice and opportunity for hearing, upon consideration of the record before the association and such other evidence as it may deem relevant—

(A) finds that such member or person has engaged in such acts or practices, or has omitted such act, as the association has found him to have engaged in or omitted, and

(B) determines that such acts or practices, or omission to act, are in violation of such rules of the association as have been designated in the determination of the association, the Commission shall by order dismiss the proceeding, unless it appears to the Commission that such action should be modified in accordance with subparagraph (2) of this paragraph. The Commission shall likewise determine whether the acts or practices prohibited, or the omission of any act required, by any such rule constitute conduct inconsistent with just and equitable principles of trade, and shall so declare. If it appears to the Commission that the evidence does not warrant the finding required in clause (A), or if the Commission determines that such acts or practices as are found to have been engaged in are not prohibited by the designated rule or rules of the association, or that such act as is found to have been omitted is not required by such designated rule or rules, the Commission shall by order set aside the action of the association.

(2) If, after appropriate notice and opportunity for hearing, the Commission finds that any penalty imposed upon a member or person associated with a member is excessive or oppressive, having due regard to the public interest, the Commission shall by order cancel, reduce, or require the remission of such penalty.

(3) In any proceeding to review the denial of membership in a registered futures association or the barring of any person from being associated with a member, if the Commission, after appropriate notice and hearing, and upon consideration of the record before the association and such other evidence as it may deem relevant, determines that the specific grounds on which such denial or bar is based exist in fact and are valid under this section, the Commission shall by order dismiss the proceeding; otherwise, the Commission shall by order set aside the action of the association and require it to admit the applicant to membership therein, or to permit such person to be associated with a member.

(j) Changes or additions to association rules

Every registered futures association shall file with the Commission in accordance with such rules and regulations as the Commission may prescribe as necessary or appropriate in the public interest, copies of any changes in or additions to the rules of the association, and such other information and documents as the Commission may require to keep current or to supplement the registration statement and documents filed pursuant to paragraph (a) of this section. Any change in or addition to the rules of a registered futures association shall be submitted to the Commission for approval and shall take effect upon the thirtieth day after such approval by the Commission, or upon such earlier date as the Commission may determine, unless the Commission shall enter an order disapproving such change or addition; and the Commission shall enter such an order unless such change or addition appears to the Commission to be consistent with the requirements of this section and the provisions of this chapter.

(k) Abrogation of association rules; requests to associations by Commission to alter or supplement rules

(1) The Commission is authorized by order to abrogate any rule of a registered futures association, if after appropriate notice and opportunity for hearing, it appears to the Commission that such abrogation is necessary or appropriate to assure fair dealing by the members of such association, to assure a fair representation of its members in the administration of its affairs or effectuate the purposes of this section.

(2) The Commission may in writing request any registered futures association to adopt any specified alteration or supplement to its rules with respect to any of the matters hereinafter

enumerated. If such association fails to adopt such alteration or supplement within a reasonable time, the Commission is authorized by order to alter or supplement the rules of such association in the manner theretofore requested, or with such modifications of such alteration or supplement as it deems necessary if, after appropriate notice and opportunity for hearing, it appears to the Commission that such alteration or supplement is necessary or appropriate in the public interest or to effectuate the purposes of this section, with respect to—

(A) the basis for, and procedure in connection with, the denial of membership or the barring from being associated with a member or the disciplining of members or persons associated with members, or the qualifications required for members or natural persons associated with members or any class thereof;

(B) the method for adoption of any change in or addition to the rules of the association;

(C) the method of choosing officers and directors.

(*l*) Suspension and revocation of registration; expulsion of members; removal of association officers or directors

The Commission is authorized, if such action appears to it to be necessary or appropriate in the public interest or to carry out the purposes of this section—

(1) after appropriate notice and opportunity for hearing, by order to suspend for a period not exceeding twelve months or to revoke the registration of a registered futures association, if the Commission finds that such association has violated any provisions of this section or any rule or regulation thereunder, or has failed to enforce compliance with its own rules, or has engaged in any other activity tending to defeat the purposes of this chapter;

(2) after appropriate notice and opportunity for hearing, by order to suspend for a period not exceeding twelve months or to expel from a registered futures association any member thereof, or to suspend for a period not exceeding twelve months or to bar any person from being associated with a member thereof, if the Commission finds that such member or person—

(A) has violated any provision of this section or any rule or regulation thereunder, or has effected any transaction for any other person who, he had reason to believe, was violating with respect to such transaction any provision of this section or any rule or regulation thereunder; or

(B) has willfully violated any provision of this chapter, or of any rule, regulation, or order thereunder, or has effected any transaction for any other person who, he had reason to believe, was willfully violating with respect to such transaction any provision of this chapter or rule, regulation, or order.

(3) after appropriate notice and opportunity for hearing, by order to remove from office any officer or director of a registered futures association who, the Commission finds, has willfully failed to enforce the rules of the association, or has willfully abused his authority.

(m) Reports to Congress

The Commission shall include in its annual reports to Congress information concerning any futures associations registered pursuant to this section and the effectiveness of such associations in regulating the practices of the members.

(Sept. 21, 1922, ch. 369, § 17, as added Oct. 23, 1974, Pub. L. 93-463, title III, § 301, 88 Stat. 1406.)

EFFECTIVE DATE

For effective date of section, see section 418 of Pub. L. 93-463, set out as a note under section 2 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 6p, 19 of this title.

§ 22. Research and information programs; reports to Congress

(a) The Commission shall establish and maintain, as part of its ongoing operations, research and information programs to (1) determine the feasibility of trading by computer, and the expanded use of modern information system technology, electronic data processing, and modern communication systems by commodity exchanges, boards of trade, and by the Commission itself for purposes of improving, strengthening, facilitating, or regulating futures trading operations; (2) assist in the development of educational and other informational materials regarding futures trading for dissemination and use among producers, market users, and the general public; and (3) carry out the general purposes of this chapter.

(b) The Commission shall include in its annual reports to Congress plans and findings with respect to implementing this section.

(Sept. 21, 1922, ch. 369, § 18, as added Oct. 23, 1974, Pub. L. 93-463, title IV, § 416, 88 Stat. 1415.)

EFFECTIVE DATE

For effective date of section, see section 418 of Pub. L. 93-463, set out as a note under section 2 of this title.

CHAPTER 2—COTTON STANDARDS

Sec.
51. Short title.
51a. Extension of classification facilities to cotton growers.
51a-1. Contracts with cooperatives furnishing classers; amount and type of payment.
51b. Licensing samplers; revocation and suspension of license.
52. Use of nonofficial standards prohibited; sales by sample excepted.
53. Licensing classifiers; revocation and suspension of license.
54. Classification by Department of Agriculture; certification thereof; effect of certificate; regulations for classification.
55. Charges for licenses and classifications; disposition of moneys.
56. Establishment of cotton standards; furnishing copies of estabished standards sold.
57. Disposition of proceeds of sale of cotton and of copies of standards.

Sec.
57a. Agreements with cotton associations, etc., in foreign countries to establish cotton standards.
58. General inspection and sampling of cotton.
59. Offenses in relation to cotton standards.
60. Penalties for violations.
61. General regulations, investigations, tests, etc., by Secretary.
62. Definitions.
63. Liability of principal for act of agent.
64. Appropriation for expenses; appointment by Secretary of officers and agents; compensation.
65. Separability of provisions.

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in section 15b of this title.

§ 51. Short title

This chapter shall be known by the short title of "United States Cotton Standards Act."

(Mar. 4, 1923, ch. 288, § 1, 42 Stat. 1517.)

EFFECTIVE DATE

Section 14 of act Mar. 4, 1923, provided that the United States Cotton Standards Act shall become effective Aug. 1, 1923.

§ 51a. Extension of classification facilities to cotton growers

The Secretary of Agriculture is requested to extend to cotton growers facilities for the classification of cotton authorized in this chapter, with such supervision of licensed classifiers as he shall deem necessary under authority of the United States Cotton Futures Act.

(Mar. 4, 1933, ch. 284, § 1, 47 Stat. 1621.)

REFERENCES IN TEXT

The United States Cotton Futures Act, referred to in text, is act Aug. 11, 1916, ch. 313, 39 Stat. 476, as amended, which was repealed by section 4 of act Feb. 10, 1939, ch. 2, 53 Stat. 1.

CODIFICATION

This section was not enacted as a part of the United States Cotton Standards Act, which constitutes this chapter.

§ 51a–1. Contracts with cooperatives furnishing classers; amount and type of payment

On and after July 5, 1952 the Secretary may contract with cooperatives furnishing classers and other facilities for classing cotton and may pay for such services in amount, some part of which may be in kind, not in excess of the value of the samples.

(July 5, 1952, ch. 574, title I, § 101, 66 Stat. 349.)

CODIFICATION

Section was enacted as a part of the Department of Agriculture Appropriation Act, 1953, and not as a part of the United States Cotton Standards Act which constitutes this chapter.

§ 51b. Licensing samplers; revocation and suspension of license

Further to carry out the purposes of this chapter the Secretary of Agriculture is authorized to issue to any qualified person, upon presentation of satisfactory evidence of competency, a license to sample cotton. Any such license may be suspended or revoked by the Secretary of Agriculture whenever he is satisfied that such licensee is incompetent or has knowingly or carelessly sampled cotton improperly, or has violated any provision of this chapter or the regulations thereunder so far as the same may relate to him, or has used his license, or allowed it to be used, for any improper purpose. The Secretary of Agriculture may prescribe by regulation the conditions under which licenses may be issued hereunder, and may require any licensed sampler to give bond for the faithful performance of his duties and for the protection of persons affected thereby and may prescribe the conditions under which cotton shall be sampled by licensed samplers for the purpose of classification by officers of the Department of Agriculture, or by licensed cotton classifiers.

(Mar. 4, 1933, ch. 284, § 2, 47 Stat. 1621.)

CODIFICATION

This section was not enacted as a part of the United States Cotton Standards Act, which constitutes this chapter.

§ 52. Use of nonofficial standards prohibited; sales by sample excepted

It shall be unlawful (a) in or in connection with any transaction or shipment in commerce made after August 1, 1923, or (b) in any publication of a price or quotation determined in or in connection with any transaction or shipment in commerce after August 1, 1923, or (c) in any classification for the purposes of or in connection with a transaction or shipment in commerce after August 1, 1923, for any person to indicate for any cotton a grade or other class which is of or within the official cotton standards of the United States then in effect under this chapter by a name, description, or designation, or any system of names, description, or designation not used in said standards: *Provided,* That nothing herein shall prevent a transaction otherwise lawful by actual sample or on the basis of a private type which is used in good faith and not in evasion of or substitution for said standards.

(Mar. 4, 1923, ch. 288, § 2, 42 Stat. 1517.)

CROSS REFERENCES

Punishment for violating the provisions of this section, see section 60 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 60 of this title.

§ 53. Licensing classifiers; revocation and suspension of license

The Secretary of Agriculture may, upon presentation of satisfactory evidence of competency, issue to any person a license to grade or otherwise classify cotton and to certificate the grade or other class thereof in accordance with the official cotton standards of the United States. Any such license may be suspended or revoked by the Secretary of Agriculture whenever he is satisfied, after reasonable opportunity afforded to the licensee for a hearing, that such licensee is incompetent or has knowingly or carelessly classified cotton improperly, or has violated any provision of this chapter or

the regulations thereunder so far as the same may relate to him, or has used his license or allowed it to be used for any improper purpose. Pending investigation the Secretary of Agriculture, whenever he deems necessary, may suspend a license temporarily without a hearing.

(Mar. 4, 1923, ch. 288, § 3, 42 Stat. 1517.)

CROSS REFERENCES

Charges for licenses issued to classifiers of cotton under this section, see section 55 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 55 of this title.

§ 54. Classification by Department of Agriculture; certification thereof; effect of certificate; regulations for classification

Any person who has custody of or a financial interest in any cotton may submit the same or samples thereof, drawn in accordance with the regulations of the Secretary of Agriculture, to such officer or officers of the Department of Agriculture, as may be designated for the purpose pursuant to the regulations of the Secretary of Agriculture for a determination of the true classification of such cotton or samples, including the comparison thereof, if requested, with types or other samples submitted for the purpose. The final certificate of the Department of Agriculture showing such determination shall be binding on officers of the United States and shall be accepted in the courts of the United States as prima facie evidence of the true classification or comparison of such cotton or samples when involved in any transaction or shipment in commerce. The Secretary of Agriculture shall fix rules and regulations for submitting samples of cotton for classification providing that all samples shall be numbered so that no one interested in the transaction involved shall be known by any classifier engaged in the classification of such cotton samples.

(Mar. 4, 1923, ch. 288, § 4, 42 Stat. 1517.)

CROSS REFERENCES

Charges for determinations made under this section, see section 55 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 55, 58 of this title.

§ 55. Charges for licenses and classifications; disposition of moneys

The Secretary of Agriculture may cause to be collected such charges as he may find to be reasonable for licenses issued to classifiers of cotton under section 53 of this title and for determinations made under section 54 of this title, and the amounts so collected shall be used by the Secretary of Agriculture in paying expenses of the Department of Agriculture connected therewith.

(Mar. 4, 1923, ch. 288, § 5, 42 Stat. 1518.)

APPROPRIATION ACCOUNT

Effective July 1, 1935, the appropriation account for expenses provided for in this chapter was abolished by act June 26, 1934, ch. 756, § 5, 48 Stat. 1228. See section 725d(b) of Title 31, Money and Finance.

§ 56. Establishment of cotton standards; furnishing copies of established standards sold

The Secretary of Agriculture is authorized to establish from time to time standards for the classification of cotton by which its quality or value may be judged or determined for commercial purposes which shall be known as the official cotton standards of the United States. Any such standard or change or replacement thereof shall become effective only on and after a date specified in the order of the Secretary of Agriculture establishing the same, which date shall be not less than one year after the date of such order: *Provided,* That the official cotton standards established, effective August 1, 1923, under the United States Cotton Futures Act shall be at the same time the official cotton standards for the purpose of this chapter unless and until changed or replaced under this chapter. Whenever any standard or change or replacement thereof shall become effective under this chapter, it shall also, when so specified in the order of the Secretary of Agriculture, become effective for the purposes of the United States Cotton Futures Act and supersede any inconsistent standard established under said Act. Whenever the official cotton standards of the United States established under this chapter shall be represented by practical forms the Department of Agriculture shall furnish copies thereof, upon request, to any person, and the cost thereof, as determined by the Secretary of Agriculture, shall be paid by the person making the request. The Secretary of Agriculture may cause such copies to be certified under the seal of the Department of Agriculture and may attach such conditions to the purchase and use thereof, including provision for the inspection, condemnation, and exchange thereof by duly authorized representatives of the Department of Agriculture as he may find to be necessary to the proper application of the official cotton standards of the United States.

(Mar. 4, 1923, ch. 288, § 6(a), formerly § 6, 42 Stat. 1518, renumbered Sept. 21, 1944, ch. 412, § 401(b), 58 Stat. 738.)

REFERENCES IN TEXT

The United States Cotton Futures Act, referred to in text, is act Aug. 11, 1916, ch. 313, 39 Stat. 476, as amended, which was repealed by section 4 of act Feb. 10, 1939, ch. 2, 53 Stat. 1.

CODIFICATION

Section is composed of the first five sentences of subsection (a) of section 6 of act Mar. 4, 1923, as renumbered by section 401(b), of act Sept. 21, 1944. Last sentence of subsection (a) is set out as section 57 of this title. Subsection (b) is set out as section 57a of this title.

CROSS REFERENCES

Disposition of proceeds of sale of cotton and of copies of standards, see section 57 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 57 of this title.

§ 57. Disposition of proceeds of sale of cotton and of copies of standards

Any moneys received from or in connection with the sale of cotton purchased for the prep-

aration of the copies mentioned in section 56 of this title and condemned as unsuitable for such use or with the sale of such copies may be expended for the purchase of other cotton for such use.

(Mar. 4, 1923, ch. 288, § 6(a), formerly § 6, 42 Stat. 1518, renumbered Sept. 21, 1944, ch. 412, § 401(b), 58 Stat. 738.)

CODIFICATION

Section is composed of the last sentence of subsection (a) of section 6 of act Mar. 4, 1923, as renumbered by section 401(b) of act Sept. 21, 1944. First five sentences of subsection (a) are set out as section 56 of this title. Subsection (b) is set out as section 57a of this title.

§ 57a. Agreements with cotton associations, etc., in foreign countries to establish cotton standards

The Secretary of Agriculture is authorized to effectuate agreements with cotton associations, cotton exchanges, and other cotton organizations in foreign countries, for (1) the adoption, use, and observance of universal standards of cotton classification, (2) the arbitration or settlement of disputes with respect thereto, and (3) the preparation, distribution, inspection, and protection of the practical forms or copies thereof under such agreements.

(Mar. 4, 1923, ch. 288, § 6(b), as added Sept. 21, 1944, ch. 412, title IV, § 401(b), 58 Stat. 738.)

CODIFICATION

Section was enacted as subsection (b) of section 6 of act Mar. 4, 1923, by act Sept. 21, 1944, § 401(b). Subsection (a) of section 6 is classified to sections 56 and 57 of this title.

§ 58. General inspections and sampling of cotton

In order to carry out the provisions of this chapter, the Secretary of Agriculture is authorized to cause the inspection, including the sampling, of any cotton involved in any transaction or shipment in commerce, wherever such cotton may be found, or of any cotton with respect to which a determination of the true classification is requested under section 54 of this title.

(Mar. 4, 1923, ch. 288, § 7, 42 Stat. 1518.)

§ 59. Offenses in relation to cotton standards

It shall be unlawful for any person (a) with intent to deceive or defraud, to make, receive, use, or have in his possession any simulate or counterfeit practical form or copy of any standard or part thereof established under this chapter; or (b) without the written authority of the Secretary of Agriculture, to make, alter, tamper with, or in any respect change any practical form or copy of any standard established under this chapter; or (c) to display or use any such practical form or copy after the Secretary of Agriculture shall have caused it to be condemned.

(Mar. 4, 1923, ch. 288, § 8, 42 Stat. 1519.)

CROSS REFERENCES

Punishment for violating the provisions of this section, see section 60 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 60 of this title.

§ 60. Penalties for violations

(a) Any person who shall knowingly violate any provision of sections 52 or 59 of this title, or (b) any person licensed under this chapter who, for the purposes of or in connection with any transaction or shipment in commerce, shall knowingly classify cotton improperly, or shall knowingly falsify or forge any certificate of classification, or shall accept money or other consideration, either directly or indirectly, for any neglect or improper performance of duty as such licensee, or (c) any person who shall knowingly influence improperly or attempt to influence improperly any person licensed under this chapter in the performance of his duties as such licensee relating to any transaction or shipment in commerce, or (d) any person who shall forcibly assault, resist, impede, or interfere with or influence improperly or attempt to influence improperly any person employed under this chapter in the performance of his duties, shall, upon conviction thereof, be deemed guilty of a misdemeanor and shall be fined not exceeding $1,000, or imprisoned not exceeding six months, or both, in the discretion of the court.

(Mar. 4, 1923, ch. 288, § 9, 42 Stat. 1519.)

CROSS REFERENCES

Misdemeanor defined, see section 1 of Title 18, Crimes and Criminal Procedure.

§ 61. General regulations, investigations, tests, etc., by Secretary

For the purposes of this chapter the Secretary of Agriculture shall cause to be promulgated such regulations, may cause such investigations, tests, demonstrations, and publications to be made, including the investigation and determination of some practical method whereby repeated and unnecessary sampling and classification of cotton may be avoided, and may cooperate with any department or agency of the Government, any State, Territory, District, or possession, or department, agency, or political subdivision thereof, or any person, as he shall find to be necessary.

(Mar. 4, 1923, ch. 288, § 10, 42 Stat. 1519.)

§ 62. Definitions

Wherever used in this chapter, (a) the word "person" imports the plural or the singular, as the case demands, and includes an individual, a partnership, a corporation, or two or more persons having a joint or common interest; (b) the word "commerce" means commerce between any State or the District of Columbia and any place outside thereof, or between points within the same State or the District of Columbia but through any place outside thereof, or within the District of Columbia; and (c) the word "cotton" means cotton of any variety produced within the continental United States, including linters.

(Mar. 4, 1923, ch. 288, § 11, 42 Stat. 1519.)

CODIFICATION

Section is composed of the first sentence of section 11 of act Mar. 4, 1923. The remainder of section 11 is contained in section 63 of this title.

§ 63. Liability of principal for act of agent

When construing and enforcing the provisions of this chapter, the act, omission, or failure of any agent, officer, or other person acting for or employed by any person, within the scope of his employment or office, shall in every case be deemed also the act, omission, or failure of such person as well as that of such agent, officer, or other person.

(Mar. 4, 1923, ch. 288, § 11, 42 Stat. 1519.)

CODIFICATION

Section is composed of the second sentence of section 11 of act Mar. 4, 1923. The first sentence of section 11 is contained in section 62 of this title.

§ 64. Appropriation for expenses; appointment by secretary of officers and agents; compensation

There are authorized to be appropriated out of any moneys in the Treasury not otherwise appropriated, such sums as may be necessary for carrying out the provisions of this chapter; and the Secretary of Agriculture is authorized, within the limits of such appropriations, to appoint, remove, and fix the compensations of such officers and employees, not in conflict with existing law, and make such expenditures for rent outside the District of Columbia, printing, telegrams, telephones, law books, books of reference, periodicals, furniture, stationery, office equipment, travel, and other supplies and expenses as shall be necessary to the administration of this chapter in the District of Columbia and elsewhere.

(Mar. 4, 1923, ch. 288, § 12, 42 Stat. 1519.)

§ 65. Separability of provisions

If any provision of this chapter or the application thereof to any person or circumstances is held invalid, the validity of the remainder of the chapter and the application of such provision to other persons and circumstances shall not be affected thereby.

(Mar. 4, 1923, ch. 288, § 13, 42 Stat. 1520.)

CHAPTER 3—GRAIN STANDARDS

Sec.

71. Short title.
72, 73. Omitted.
74. Congressional findings and declaration of policy.
75. Definitions.
75a. Federal Grain Inspection Service; Administrator.
76. Standards; establishment, amendment, and revocation.
77. Official inspection and weighing requirements; waiver; supervision by representatives of Administrator.
78. Use of official grade designations required; false or misleading grade designations for grain shipped out of the United States.
79. Official inspection.
(a) Grain required to be officially inspected.
(b) Inspections made pursuant to request of interested persons.
(c) Reinspections and appeals; cancellation of superseded certificates; sale of samples.
(d) Official certificates as evidence.
(e) Official inspection at export port locations; delegation of authority to State agencies.
(f) Official inspections at other than export port locations; designation of agencies or persons to conduct official inspections.
(g) Termination, renewal, amendment, cancellation, and revocation of designations of official agencies.
(h) Official inspections at locations other than export port locations when designated official agencies are not available.
(i) Official inspections in Canadian ports.
(j) Fees.
79a. Weighing authority.
(a) Official weighing in accordance with prescribed regulations.
(b) Supervision of weighing at grain elevators, warehouses, or other storage or handling facilities located other than at export port locations.
(c) Personnel performing official weighing or supervision of weighing at locations at which official inspection is provided.
(d) Official weighing in Canadian ports.
(e) Official weighing or supervision of weighing upon request of operators of grain elevators, warehouses, or other storage or handling facilities.
(f) Demonstrated willingness of operators of grain elevators, warehouses, or other storage or handling facilities to meet equipment and personnel requirements.
(g) Official certificates as evidence.
(h) Weighing prohibited when not in accordance with prescribed procedures.
(i) Unauthorized weighing prohibited.
(j) Authority under United States Warehouse Act not limited.
(k) Access to elevators, warehouses, or other storage or handling facilities.
(*l*) Fees.
79b. Testing of equipment.
(a) Random and periodic testing at least annually.
(b) Personnel to conduct testing.
(c) Use of non-approved equipment prohibited.
80 to 83. Omitted.
84. Licensing of inspectors.
(a) Authorization.
(b) Duration of licenses; suspension; reinstatement.
(c) Examination of applicants; reexaminations.
(d) Inspectors performing under contract not deemed Federal employees.
(e) Hiring of official inspection personnel and supervisory personnel without regard to laws governing appointments to the competitive service.
(f) Periodic rotation of personnel.
(g) Recruitment, training, and supervision of personnel; work production standards; exemption for certain personnel.

Sec.
85. Suspension, revocation, and refusal to renew licenses; hearing; grounds; temporary suspension.
86. Refusal of inspection and weighing services; civil penalties.
(a) Grounds for refusal of services.
(b) Persons responsibly connected with a business.
(c) Civil penalties.
(d) Opportunity for hearing; temporary refusal without hearing pending final determination.
(e) Collection and disposition of civil penalties.
87. Conflicts of interest.
(a) Prohibition with respect to persons licensed or authorized by Administrator to perform official functions.
(b) Prohibition with respect to personnel of official or State agencies and business or governmental entities related to such agencies; substantial stock holder; use of official inspection service; authority delegation; report to Congressional committees.
(c) Official agencies not prevented from engaging in business of weighing grain.
87a. Records.
(a) Samples of grain.
(b) Period of maintenance.
(c) Access to records; audits.
(d) Maintenance of records by persons or entities receiving official inspection or weighing services; access to records and facilities.
87b. Prohibited acts.
87c. Criminal penalties.
87d. Responsibility for acts of others.
87e. General authorities.
(a) Authority of Administrator.
(b) Investigation of reports or complaints of discrepancies and abuses in official inspection or weighing of grain.
(c) Monitoring of United States grain upon its entry into foreign nations.
(d) Authority of Office of Investigation of Department of Agriculture.
(e) Research program to develop methods of improving accuracy and uniformity in grading grain.
(f) Adequate personnel to meet additional inspection and weighing requirements.
87e-1. Purchase or lease of inspection equipment.
87f. Enforcement provisions.
(a) Subpena power.
(b) Disobedience of subpena.
(c) Court order requiring attendance and testimony of witnesses.
(d) Fees and mileage costs of witnesses.
(e) Violation of subpena as misdemeanor.
(f) Repealed.
(g) Unlawful disclosure of information; penalty.
(h) District Court jurisdiction.
87f-1. Registration requirements.
(a) General requirement.
(b) Required information.
(c) Certificate of registration.
(d) Suspension or registration of certificate of registration.
(e) Fees.
87f-2. Reporting requirements.
(a) General requirement; annual report to Congressional Committees.
(b) Notification of Congressional Committees of complaints regarding faulty grain deliveries and cancellation of export contracts.
(c) Submission to Congressional Committees of annual summary of complaints from foreign purchasers and prospective purchasers of grain.
87g. Relation to State and local laws; separability of provisions.
87h. Authorization of appropriations.

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in section 420 of this title.

§ 71. Short title

This chapter may be cited as the "United States Grain Standards Act."

(Aug. 11, 1916, ch. 313, part B, § 1, 39 Stat. 482; Aug. 15, 1968, Pub. L. 90-487, § 1, 82 Stat. 761.)

CODIFICATION

This chapter constitutes part B of "An act making appropriations for the Department of Agriculture for the fiscal year ending June 30, 1917, and for other purposes," approved Aug. 11, 1916. Part A of act of Aug. 11, 1916, containing the "United States Cotton Futures Act," was repealed by section 4 of act Feb. 10, 1939, ch. 2, 53 Stat. 1. Part C of that act contained the "United States Warehouse Act," and is incorporated, as amended, as section 241 et seq. of this title.

Section is composed of part of section 1 of part B of act Aug. 11, 1916. Other provisions contained in section 1 were classified to former sections 72 and 73 of this title.

AMENDMENTS

1968—Pub. L. 90-487 substituted "may be cited as" for "shall be known by the short title of".

EFFECTIVE DATE OF 1968 AMENDMENT

Amendment by Pub. L. 90-487 effective 180 days after Aug. 15, 1968, see section 2 of Pub. L. 90-487, set out as a note under section 78 of this title.

SHORT TITLE OF 1976 AMENDMENT

Section 1 of Pub. L. 94-582, Oct. 21, 1976, 90 Stat. 2867, provided: "That this Act [enacting sections 75a, 79a, 79b, 87e-1, 87f-1 and 87f-2 of this title, amending sections 74, 75, 76, 77, 78, 79, 84, 85, 86, 87, 87a, 87b, 87c, 87e, 87f, 87g, and 87h of this title, section 5316 of Title 5, Government Organization and Employees, and section 1114 of Title 18, Crimes and Criminal Procedure, and enacting provisions set out as notes under sections 74, 75a, 76, and 79 of this title] may be cited as the 'United States Grain Standards Act of 1976'."

§§ 72, 73. Omitted

CODIFICATION

Sections were omitted in the general reorganization of this chapter by Pub. L. 90-487, § 1, Aug. 15, 1968, 82 Stat. 761.

Section 72, act Aug. 11, 1916, ch. 313, pt. B, § 1 (part), 39 Stat. 482, defined the words "person" and "in interstate or foreign commerce". See section 75 of this title.

Section 73, act Aug. 11, 1916, ch. 313, pt. B, § 1 (part), 39 Stat. 482, made associations, partnerships, and corporations liable for the acts of their agents within the scope of their employment or office. See section 87d of this title.

§ 74. Congressional findings and declaration of policy

Grain is an essential source of the world's total supply of human food and animal feed

and is merchandised in interstate and foreign commerce. It is declared to be the policy of the Congress, for the promotion and protection of such commerce in the interests of producers, merchandisers, warehousemen, processors, and consumers of grain, and the general welfare of the people of the United States, to provide for the establishment of official United States standards for grain, to promote the uniform application thereof by official inspection personnel, and to provide for an official inspection system for grain, and to regulate the weighing and the certification of the weight of grain shipped in interstate or foreign commerce in the manner hereinafter provided; with the objectives that grain may be marketed in an orderly and timely manner and that trading in grain may be facilitated. It is hereby found that all grain and other articles and transactions in grain regulated under this chapter are either in interstate or foreign commerce or substantially affect such commerce and that regulation thereof as provided in this chapter is necessary to prevent or eliminate burdens on such commerce and to regulate effectively such commerce.

(Aug. 11, 1916, ch. 313, part B, § 2, 39 Stat. 482; July 18, 1940, ch. 636, 54 Stat. 765; Aug. 15, 1968, Pub. L. 90-487, § 1, 82 Stat. 761; Oct. 21, 1976, Pub. L. 94-582, § 2, 90 Stat. 2867.)

AMENDMENTS

1976—Pub. L. 94-582 expressed the policy of Congress to regulate the weighing and the certification of the weight of grain shipped in interstate or foreign commerce and the finding of Congress of the necessity to regulate grain transactions to prevent or eliminate burdens on commerce and to regulate effectively such interstate or foreign commerce, and provided that the grain be marketed in a "timely" manner.

1968—Pub. L. 90-487 substituted a declaration of policy by the Congress for provisions authorizing the promulgation and establishment of grain standards by the Secretary of Agriculture.

1940—Act July 18, 1940, inserted "soybeans" after "flaxseed."

EFFECTIVE DATE OF 1976 AMENDMENT

Section 27 of Pub. L. 94-582 provided that:

"This Act [see Short Title of 1976 Amendment note set out under section 71 of this title] shall become effective thirty days after enactment hereof [Oct. 21, 1976]; and thereafter no State agency shall provide official inspection at an export port location or official weighing at an export elevator at an export port location without a delegation of authority and no agency or person shall provide official inspection service or supervision of weighing in any other area without a designation under the United States Grain Standards Act, as amended by this Act [see Short Title of 1976 Amendment note set out under section 71 of this title], except that any agency or person then providing such service in any area, who pays fees when due, in the same manner as prescribed in section 7 or 7A of the United States Grain Standards Act, as amended by this Act [section 79 or 79a of this title], may continue to operate in that area without a delegation or designation but shall be subject to all provisions of the United States Grain Standards Act [this chapter] and regulations thereunder in effect immediately prior to the effective date of this Act, until whichever of the following events occurs first:

"(1) a delegation or designation of such agency or person to perform such services is granted or denied by the Administrator of the Federal Grain Inspection Service pursuant to the United States Grain Standards Act, as amended by this Act [see Short Title of 1976 Amendment note set out under section 71 of this title]; or

"(2) such agency or person, or two or more members or employees thereof, have been or are convicted of a violation of any provision of the United States Grain Standards Act [this chapter] in effect immediately prior to the effective date of this Act; or convicted of any offense proscribed by other Federal law involving the handling, weighing, or official inspection of grain;

"(3) with respect to export port locations and export elevators located at export port locations, the expiration of a period determined by the Administrator of not more than eighteen months following the effective date hereof; or

"(4) with respect to any other area, the expiration of a period as determined by the Administrator of not more than two years following the effective date hereof:

Provided, That the Administrator is authorized and directed to cause official inspection and official weighing of grain pursuant to the provisions of the United States Grain Standards Act, as amended by this Act [see Short Title of 1976 Amendment note set out under section 71 of this title], to be performed by authorized employees of the United States Department of Agriculture or the Service, to begin at any time immediately thereafter the date of enactment of this Act [Oct. 21, 1976], at those export port locations and export elevators located at export port locations at which the Administrator determines that such performance by such authorized employees is necessary to effectuate the provisions of section 2 of the United States Grain Standards Act, as amended [this section]."

EFFECTIVE DATE OF 1968 AMENDMENT

For effective date of amendment by Pub. L. 90-487, see section 2 of Pub. L. 90-487, set out as a note under section 78 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 79, 86, 87e, 87f-2 of this title.

§ 75. Definitions

When used in this chapter, except where the context requires otherwise—

(a) the term "Secretary" means the Secretary of Agriculture of the United States or his delegates;

(b) the term "Department of Agriculture" means the United States Department of Agriculture;

(c) the term "person" means any individual, partnership, corporation, association, or other business entity;

(d) the term "United States" means the States (including Puerto Rico) and the territories and possessions of the United States (including the District of Columbia);

(e) the term "State" means any one of the States (including Puerto Rico) or territories or possessions of the United States (including the District of Columbia);

(f) the term "interstate or foreign commerce" means commerce from any State to or through any other State, or to or through any foreign country;

(g) the term "grain" means corn, wheat, rye, oats, barley, flaxseed, grain sorghum, soybeans, mixed grain, and any other food grains, feed grains, and oilseeds for which standards are established under section 76 of this title;

(h) the term "export grain" means grain for shipment from the United States to any place outside thereof;

(i) The term "official inspection" means the determination (by original inspection, and when requested, reinspection and appeal inspection) and the certification, by official inspection personnel of the kind, class, quality, or condition of grain, under standards provided for in this chapter, or the condition of vessels and other carriers or receptacles for the transportation of grain insofar as it may affect the quality or condition of such grain; or, upon request of the interested party applying for inspection, the quantity of sacks of grain, or other facts relating to grain under other criteria approved by the Administrator under this chapter (the term "officially inspected" shall be construed accordingly);

(j) The term "official inspection personnel" means persons licensed or otherwise authorized by the Administrator pursuant to section 84 of this title to perform all or specified functions involved in official inspection, official weighing, or supervision of weighing, or in the supervision of official inspection, official weighing or supervision of weighing;

(k) The term "official mark" means any symbol prescribed by regulations of the Administrator to show the official determination of official inspection or official weighing;

(*l*) the term "official grade designation" means a numerical or sample grade designation, specified in the standards relating to kind, class, quality, and condition of grain, provided for in this chapter;

(m) The term "official agency" means any State or local governmental agency, or any person, designated by the Administrator pursuant to subsection (f) of section 79 of this title for the conduct of official inspection (other than appeal inspection), or subsection (b) of section 79a of this title for the conduct of supervision of weighing;

(n) the terms "official certificate" and "official form" mean, respectively, a certificate or other form prescribed by regulations of the Administrator under this chapter;

(*o*) the term "official sample" means a sample obtained from a lot of grain by, and submitted for official inspection by, official inspection personnel (the term "official sampling" shall be construed accordingly);

(p) the term "submitted sample" means a sample submitted by or for an interested person for official inspection, other than an official sample;

(q) the term "lot" means a specific quantity of grain identified as such;

(r) the term "interested person" means any person having a contract or other financial interest in grain as the owner, seller, purchaser, warehouseman, or carrier, or otherwise;

(s) the verb "ship" with respect to grain means transfer physical possession of the grain to another person for the purpose of transportation by any means of conveyance, or transport one's own grain by any means of conveyance;

(t) the terms "false", "incorrect", and "misleading" mean, respectively, false, incorrect, and misleading in any particular;

(u) The term "deceptive loading, handling, weighing, or sampling" means any manner of loading, handling, weighing, or sampling that deceives or tends to deceive official inspection personnel, as specified by regulations of the Administrator under this chapter;

(v) The term "export elevator" means any grain elevator, warehouse, or other storage or handling facility in the United States as determined by the Administrator, from which grain is shipped from the United States to an area outside thereof;

(w) The term "export port location" means a commonly recognized port of export in the United States or Canada, as determined by the Administrator, from which grain produced in the United States is shipped to any place outside the United States;

(x) The term "official weighing" means the determination and certification by official inspection personnel of the quantity of a lot of grain under standards provided in this chapter, based on the actual performance of weighing or the physical supervision thereof, including the physical inspection and testing for accuracy of the weights and scales and the physical inspection of the premises at which the weighing is performed and the monitoring of the discharge of grain into the elevator or conveyance (the terms "officially weigh" and "officially weighed" shall be construed accordingly);

(y) The term "supervision of weighing" means the supervision of the weighing process and of the certification of the weight of grain, and the physical inspection of the premises at which the weighing is performed to assure that all the grain intended to be weighed has been weighed and discharged into the elevator or conveyance represented on the weight certificate or other document;

(z) The term "Administrator" means the Administrator of the Federal Grain Inspection Service or his delegates;

(aa) The term "Service" means the Federal Grain Inspection Service.

(Aug. 11, 1916, ch. 313, part B, § 3, 39 Stat. 483; Aug. 15, 1968, Pub. L. 90-487, § 1, 82 Stat. 761; Oct. 21, 1976, Pub. L. 94-582, § 3, 90 Stat. 2867, 2868.)

AMENDMENTS

1976—Subsec. (i). Pub. L. 94-582, § 3(a), substituted "Administrator" for "Secretary", and expanded definition of "official inspection" to include determination "(by original inspection, and when requested, reinspection and appeal inspection)" and determination and certification of the condition of vessels and other carriers or receptacles for the transportation of grain insofar as it may affect the quality or condition of the grain.

Subsec. (j). Pub. L. 94-582, § 3(b), in redefining "official inspection personnel", substituted provision declaring the term to mean "persons licensed or otherwise authorized by the Administrator pursuant to section 84 of this title to perform all or specified functions involved in official inspection, official weighing, or supervision of weighing, or in the supervision of official inspection, official weighing or supervision of weighing" for "employees of State or other governmental agencies or commercial agencies or other persons who are licensed to perform all or specified functions involved in official inspection under this chapter; employees of the Department of Agriculture who are

authorized to supervise official inspection and to conduct appeal inspection or initial inspection of United States grain in Canadian ports".

Subsec. (k). Pub. L. 94-582, § 3(c), substituted "Administrator" for "Secretary" and "official inspection or official weighing" for "an official inspection".

Subsec. (*l*). Pub. L. 94-582, § 3(d), substituted "standards relating to kind, class, quality, and condition of grain," for "standards".

Subsec. (m). Pub. L. 94-582, § 3(e), substituted definition of "official agency" meaning "any State or local governmental agency, or any person, designated by the Administrator pursuant to subsection (f) of section 79 of this title for the conduct of official inspection (other than appeal inspection), or subsection (b) of section 79a of this title for the conduct of supervision of weighing" for definition of "official inspection agency" meaning "the agency or person located at an inspection point designated by the Secretary for the conduct of official inspection under this chapter".

Subsec. (n). Pub. L. 94-582, § 3(f), substituted "Administrator" for "Secretary".

Subsec. (u). Pub. L. 94-582, § 3(g), included within the term defined and its definition the concept of "weighing" and substituted "Administrator" for "Secretary".

Subsecs. (v) to (aa). Pub. L. 94-582, § 3(h), added subsecs. (v) to (aa).

1968—Pub. L. 90-487 substituted provisions defining the terms used in the chapter for provisions that the standards fixed and established by the Secretary of Agriculture be known as the official grain standards of the United States.

EFFECTIVE DATE OF 1976 AMENDMENT

For effective date of amendment by Pub. L. 94-582, see Effective Date of 1976 Amendment note under section 74 of this title.

EFFECTIVE DATE OF 1968 AMENDMENT

For effective date of amendment by Pub. L. 90-487, see section 2 of Pub. L. 90-487, set out as a note under section 78 of this title.

§ 75a. Federal Grain Inspection Service; Administrator

There is created and established in the Department of Agriculture a Service to be known as the Federal Grain Inspection Service, all the powers of which shall be exercised by an Administrator, under the general direction and supervision of the Secretary, who shall be appointed by the President, by and with the advice and consent of the Senate. The Administrator shall be responsible for the administration of this chapter and for the establishment of policies, guidelines, and regulations by which the Service is to carry out the provisions of this chapter.

(Aug. 11, 1916, ch. 313, Pt. B, § 3A, as added Oct. 21, 1976, Pub. L. 94-582, § 4, 90 Stat. 2868.)

EFFECTIVE DATE

For effective date of section, see Effective Date of 1976 Amendment note under section 74 of this title.

TEMPORARY EXERCISE OF POWERS, DUTIES, AND AUTHORIZATIONS PENDING APPOINTMENT OF ADMINISTRATOR

Section 25 of Pub. L. 94-582 provided that: "The powers, duties, and authorizations established by this Act [see Short Title of 1976 Amendment note set out under section 71 of this title] for the Administrator of the Federal Grain Inspection Service shall in all instances be exercised by the Secretary of Agriculture of the United States during the period between the effective date of this Act [effective thirty days after Oct. 21, 1976] and the appointment of the Administrator."

§ 76. Standards; establishment, amendment, and revocation

(a) The Administrator is authorized to investigate the handling, weighing, grading, and transportation of grain and to fix and establish (1) standards of kind, class, quality, and condition for corn, wheat, rye, oats, barley, flaxseed, grain sorghum, soybeans, mixed grain, and such other grains as in his judgment the usages of the trade may warrant and permit, and (2) standards for accurate weighing and weight certification procedures and controls, including safeguards over equipment calibration and maintenance for grain shipped in interstate or foreign commerce; and the Administrator is authorized to amend or revoke such standards whenever the necessities of the trade may require.

(b) Before establishing, amending, or revoking any standards under this chapter, the Administrator shall publish notice of the proposals and give interested persons opportunity to submit data, views, and arguments thereon and, upon request, an opportunity to present data, views, and arguments orally in an informal manner. No standards established or amendments or revocations of standards under this chapter shall become effective less than one calendar year after promulgation thereof, unless in the judgment of the Administrator, the public health, interest, or safety require that they become effective sooner.

(Aug. 11, 1916, ch. 313, part B, § 4, 39 Stat. 483; Aug. 15, 1968, Pub. L. 90-487, § 1, 82 Stat. 762; Oct. 21, 1976, Pub. L. 94-582, § 5, 90 Stat. 2869.)

AMENDMENTS

1976—Subsec. (a). Pub. L. 94-582, § 5(a), authorized the weighing of grain, designated existing provisions as cl. (1), inserted cl. (2), and reenacted provision for amendment or revocation of standards.

Subsec. (b). Pub. L. 94-582, § 5(b), substituted "Administrator" for "Secretary" in two instances.

1968—Pub. L. 90-487 substituted provisions authorizing the Secretary to establish, amend, and revoke standards for provisions making the use of official standards compulsory, setting out exceptions, and providing for the right of appeal.

EFFECTIVE DATE OF 1976 AMENDMENT

For effective date of amendment by Pub. L. 94-582, see Effective Date of 1976 Amendment note under section 74 of this title.

EFFECTIVE DATE OF 1968 AMENDMENT

For effective date of amendment by Pub. L. 90-487, see section 2 of Pub. L. 90-487, set out as a note under section 78 of this title.

INVESTIGATION AND STUDY REGARDING ADEQUACY OF GRAIN STANDARDS; CHANGES IN STANDARDS; REPORT TO CONGRESS BY OCTOBER 21, 1978

Section 24 of Pub. L. 94-582 provided that:

"(a) In order to assure that producers, handlers, and transporters of grain are encouraged and rewarded for the production, maintenance, and delivery of high quality grain and grain of the type needed to meet the end-use requirements of domestic and foreign buyers, the Administrator of the Federal Grain Inspection Service shall conduct an investigation and make a study regarding the adequacy of the current grain

standards established under the United States Grain Standards Act [this chapter].

"(b) To determine the items of concern to buyers, both foreign and domestic, and how sellers in the United States might best satisfy those needs, the Administrator may seek the advice of and may employ the services of representatives of the grain industry, landgrant colleges, and other members of the public (without regard to the provisions of title 5 of the United States Code, governing appointments in the competitive service).

"(c) The study shall address specifically, but is not limited thereto, the tasks of determining (A) if standards may be developed that would reduce grading errors and remove, where possible, subjective human judgment from grading by increased utilization of mechanical, electrical, and chemical means of grading, (B) whether grain should be subclassed according to color or other factor not affecting the quality of the grain, (C) whether the protein factor should be included in the standards, and (D) whether broken grain should be grouped together with foreign material.

"(d) On the basis of the results of such study, the Administrator, in accordance with section 4 of the United States Grain Standards Act [section 75a of this title], shall make such changes in the grain standards as he determines necessary and appropriate, and, not later than two years after the date of enactment of this Act [Oct. 21, 1976], submit a report to the Congress setting forth the findings of such study and action taken by him as a result of the study."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 75, 77, 78, 79, 79a, 87h of this title.

§ 77. Official inspection and weighing requirements; waiver; supervision by representatives of Administrator

(a) Whenever standards are effective under section 76 of this title for any grain—

(1) no person shall ship from the United States to any place outside thereof any lot of such grain, unless such lot is officially weighed and officially inspected (on the basis of official samples taken after final elevation as near the final spout through which the grain passes as physically practicable as it is being loaded aboard, or while it is in, the final carrier in which it is to be transported from the United States) in accordance with such standards, and unless a valid official certificate showing the official grade designation and certified weight of the lot of grain has been provided by official inspection personnel and is promptly furnished by the shipper, or his agent, to the consignee with the bill of lading or other shipping documents covering the shipment: *Provided*, That the Administrator may waive the foregoing requirement in emergency or other circumstances which would not impair the objectives of this chapter: *Provided further*, That the Administrator shall waive the requirement for official inspection whenever the parties to a contract for such shipment of a lot of grain (which is not sold, offered for sale, or consigned for sale by grade) from the United States to any place outside thereof mutually agree under the contract to ship such lot of grain without official inspection being performed and a copy of the contract is furnished to the Administrator prior to shipment;

(2) except as the Administrator may provide in emergency or other circumstances which would not impair the objectives of this chapter, all other grain transferred out of and all grain transferred into an export elevator at an export port location shall be officially weighed in accordance with such standards; and

(3) except as otherwise authorized by the Administrator, whenever a lot of grain is both officially inspected and officially weighed while being transferred into or out of a grain elevator, warehouse, or other storage or handling facility, an official certificate shall be issued showing both the official grade designation and the certified weight of the lot of grain.

(b) All official inspection and official weighing, whether performed by authorized Service employees or any other person licensed under section 84 of this title, shall be supervised by representatives of the Administrator, in accordance with such regulations as he may provide.

(Aug. 11, 1916, ch. 313, part B, § 5, 39 Stat. 483; Aug. 15, 1968, Pub. L. 90-487, § 1, 82 Stat. 763; Oct. 21, 1976, Pub. L. 94-582, § 6, 90 Stat. 2869.)

AMENDMENTS

1976—Subsec. (a). Pub. L. 94-582 designated existing provisions as par. (1) of subsec. (a); deleted therefrom "that is sold, offered for sale, or consigned for sale by grade" following "any lot of such grain"; inserted official weighing requirement; substituted "officially inspected (on the basis of official samples taken after final elevation as near the final spout through which the grain passes as physically practicable as it is being loaded aboard, or while it is in, the final carrier in which it is to be transported from the United States)" for "officially inspected in accordance with such standards on the basis of official samples taken after final elevation as the grain is being loaded aboard, or while it is in, the final carrier in which it is to be transported from the United States"; required the certificate to show the certified weight of the lot of grain provided by official inspection personnel; substituted provision for waiver by the Administrator of requirement for official inspection certificate in emergency or other circumstances which would not impair the objectives of this chapter for provision for waiver by the Secretary of any requirement of this section with respect to shipments from or to any area or any other class of shipments when in his judgment it is impracticable to provide official inspection with respect to such shipments; inserted provision for waiver by Administrator of requirement for official inspection whenever the parties to a contract for such shipment of a lot of grain (which is not sold, offered for sale, or consigned for sale by grade) from the United States to any place outside thereof mutually agree under the contract to ship such lot of grain without official inspection being performed and a copy of the contract is furnished to the Administrator prior to shipment; and added pars. (2) and (3) of subsec. (a).

Subsec. (b). Pub. L. 94-582 added subsec. (b).

1968—Pub. L. 90-487 substituted provisions requiring an official inspection for export grains but authorizing the waiver of such requirements when official inspection is impracticable for provisions prohibiting misrepresentation respecting grade shipped or delivered for shipment, allowing reexamination, requiring hearing in the event of a false or misleading description, and allowing publication of findings.

EFFECTIVE DATE OF 1976 AMENDMENT

For effective date of amendment by Pub. L. 94-582, see Effective Date of 1976 Amendment note under section 74 of this title.

EFFECTIVE DATE OF 1968 AMENDMENT

For effective date of amendment by Pub. L. 90-487, see section 2 of Pub. L. 90-487, set out as a note under section 78 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 79, 79a, 87b of this title.

§ 78. Use of official grade designations required; false or misleading grade designations for grain shipped out of the United States

(a) Whenever standards relating to kind, class, quality, or condition of grain are effective under section 76 of this title for any grain no person shall in any sale, offer for sale, or consignment for sale, which involves the shipment of such grain in interstate or foreign commerce, describe such grain as being of any grade in any advertising, price quotation, other negotiation of sale, contract of sale, invoice, bill of lading, other document, or description on bags or other containers of the grain, other than by an official grade designation, with or without additional information as to specified factors: *Provided,* That the description of such grain by any proprietary brand name or trademark that does not resemble an official grade designation, or with respect to interstate commerce, by the use of one or more grade factor designations set forth in the official United States standards for grain, or by other factor information shall not be deemed to be a description of grain as being of any grade.

(b) No person shall, in any sale, offer for sale, or consignment for sale, of any grain which involves the shipment of such grain from the United States to any place outside thereof, knowingly describe such grain by an official grade designation, or other description, which is false or misleading.

(Aug. 11, 1916, ch. 313, part B, § 6, 39 Stat. 484; July 11, 1958, Pub. L. 85-509, 72 Stat. 352; Aug. 15, 1968, Pub. L. 90-487, § 1, 82 Stat. 763; Oct. 21, 1976, Pub. L. 94-582, § 7, 90 Stat. 2870.)

AMENDMENTS

1976—Subsec. (a). Pub. L. 94-582 substituted "standards relating to kind, class, quality, or condition of grain" for "standards".

1968—Pub. L. 90-487 substituted provisions requiring the use of official grade designations and prohibiting the use of false or misleading description of grain shipped out of the United States, for provisions allowing the appeal to the Secretary from official grading, authorizing the payment of additional fees for employees required in making appeal inspections, and making the findings prima facie evidence of the grain's true grade.

1958—Pub. L. 85-509 authorized payment of employees assigned to perform appeal inspection for all overtime, night, or holiday work, and permitted acceptance of reimbursement for any sums paid for such work.

EFFECTIVE DATE OF 1976 AMENDMENT

For effective date of amendment by Pub. L. 94-582, see Effective Date of 1976 Amendment note under section 74 of this title.

EFFECTIVE DATE OF 1968 AMENDMENT

Section 2 of Pub. L. 90-487 provided that: "This Act [amending this section and sections 71, 74, 75, 76, 77, 79, 84, 85, 86, and 87 of this title and adding sections 87a to 87h of this title] shall become effective one hundred and eighty days after enactment hereof [August 15, 1968], except that the repeal of the mandatory inspection provisions with respect to grain shipped or delivered for shipment in interstate commerce shall become effective thirty days after enactment hereof [August 15, 1968], and the provisions of sections 6(a) and 13(a)(5) of the United States Grain Standards Act, as amended by this Act [subsec. (a) of this section and section 87b(a)(5) of this title] shall then become effective with respect to such grain."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 87b of this title.

§ 79. Official inspection

(a) Grain required to be officially inspected

The Administrator is authorized to cause official inspection under the standards provided for in section 76 of this title to be made of all grain required to be officially inspected as provided in section 77 of this title, in accordance with such regulations as he may prescribe.

(b) Inspections made pursuant to request of interested persons

The Administrator is further authorized, upon request of any interested person, and under such regulations as he may prescribe, to cause official inspection to be made with respect to any grain whether by official sample, submitted sample, or otherwise within the United States under standards provided for in section 76 of this title, or, upon request of the interested person, under other criteria approved by the Administrator for determining the kind, class, quality, or condition of grain, or quantity of sacks of grain, or other facts relating to grain, whenever in his judgment providing such service will effectuate any of the objectives stated in section 74 of this title.

(c) Reinspections and appeals; cancellation of superseded certificates; sale of samples

The regulations prescribed by the Administrator under this chapter shall include provisions for reinspections and appeal inspections; cancellation and surrender of certificates superseded by reinspections and appeal inspections; and the use of standard forms for official certificates. The Administrator may provide by regulation that samples obtained by or for employees of the Service for purposes of official inspection shall become the property of the United States, and such samples may be disposed of without regard to the provisions of the Federal Property and Administrative Services Act of 1949, as amended [40 U.S.C. 471 et seq.].

(d) Official certificates as evidence

Official certificates setting out the results of official inspection issued and not canceled under this chapter shall be received by all officers and all courts of the United States as prima facie evidence of the truth of the facts stated therein.

(e) Official inspection at export port locations; delegation of authority to State agencies

(1) Except as otherwise provided in paragraph (2) of this subsection, the Administrator shall cause official inspection at export port locations, for all grain required or authorized to be inspected by this chapter, to be performed by official inspection personnel employed by the Service or other persons under contract

with the Service as provided in section 84 of this title.

(2) If the Administrator determines pursuant to paragraph (3) of this subsection that a State agency which was performing official inspection at an export port location under this chapter on July 1, 1976, is qualified to perform official inspection and meets the criteria in subsection (f)(1)(A) of this section, the Administrator may delegate authority to the State agency to perform all or specified functions involved in official inspection (other than appeal inspection) at export port locations within the State, including export port locations which may in the future be established, subject to such rules, regulations, instructions, and oversight as he may prescribe, and any such official inspection shall continue to be the direct responsibility of the Administrator. Any such delegation may be revoked by the Administrator, at his discretion, at any time upon notice to the State agency without opportunity for a hearing. The Administrator may provide that grain loaded at an interior point in the United States into a rail car, barge, or other container as the final carrier in which it is to be transported from the United States shall be inspected in the manner provided in this subsection or subsection (f) of this section, as the Administrator determines will best meet the objectives of this chapter.

(3) Prior to delegating authority to a State agency for the performance of official inspection at export port locations pursuant to paragraph (2) of this subsection, the Administrator shall (A) conduct an investigation to determine whether such agency is qualified, and (B) make findings based on such investigation. In conducting the investigation, the Administrator shall consult with, and review the available files of the Department of Justice, the Office of Investigation of the Department of Agriculture (or such other organization or agency within the Department of Agriculture which may be delegated the authority, in lieu thereof, to conduct investigations on behalf of the Department of Agriculture), and the General Accounting Office.

(f) Official inspections at other than export port locations; designation of agencies or persons to conduct official inspections

(1) With respect to official inspections other than at export port locations, the Administrator is authorized, upon application by any State or local governmental agency, or any person, to designate such agency or person as an official agency for the conduct of all or specified functions involved in official inspection (other than appeal inspection) at locations where the Administrator determines official inspection is needed, if—

(A) the agency or person shows to the satisfaction of the Administrator that such agency or person—

(i) has adequate facilities and qualified personnel for the performance of such official inspection functions;

(ii) will provide for the periodic rotation of official inspection personnel among the grain elevators, warehouses, or other storage or handling facilities at which the State or person provides official inspection, as is necessary to preserve the integrity of the official inspection service;

(iii) will meet training requirements and personnel standards established by the Administrator under section 84(g) of this title;

(iv) will otherwise conduct such training and provide such supervision of its personnel as are necessary to assure that they will provide official inspection in accordance with this chapter and the regulations and instructions thereunder;

(v) will not charge official inspection fees that are discriminatory or unreasonable;

(vi) if a State or local governmental agency, will not use any moneys collected pursuant to the charging of fees for any purpose other than the maintenance of the official inspection operation or other agricultural programs operated by the State or local governmental agency;

(vii) and any related entities do not have a conflict of interest prohibited by section 87 of this title;

(viii) will maintain complete and accurate records of its organization, staffing, official activities, and fiscal operations, and such other records as the Administrator may require by regulation;

(ix) if a State or local governmental agency, will employ personnel on the basis of job qualifications rather than political affiliations;

(x) will comply with all provisions of this chapter and the regulations and instructions thereunder; and

(xi) meets other criteria established in regulations issued under this chapter relating to official functions under this chapter; and

(B) the Administrator determines that the applicant is better able than any other applicant to provide official inspection service.

(2) Not more than one official agency for carrying out the provisions of this chapter shall be operative at one time for any geographic area as determined by the Administrator to effectuate the objectives stated in section 74 of this title, but this paragraph shall not be applicable to prevent any inspection agency from operating in any area in which it was operative on August 15, 1968. No official agency or State delegated authority pursuant to subsection (e)(2) of this section shall officially inspect under this chapter any official or other sample drawn from a lot of grain and submitted for inspection unless such lot of grain is physically located within the geographic area assigned to the agency by the Administrator at the time such sample is drawn. No State or local governmental agency or person shall provide any official inspection for the purposes of this chapter except pursuant to an unsuspended and unrevoked delegation of authority or designation by the Administrator, as provided in this section, or as provided in section 84(a) of this title.

(g) Termination, renewal, amendment, cancellation, and revocation of designations of official agencies

(1) Designations of official agencies shall terminate at such time as specified by the Administrator but not later than triennially and may

be renewed in accordance with the criteria and procedure prescribed in subsections (e) and (f) of this section.

(2) A designation of an official agency may be amended at any time upon application by the official agency if the Administrator determines that the amendment will be consistent with the provisions and objectives of this chapter; and a designation will be cancelled upon request by the official agency with ninety days written notice to the Administrator. A fee as prescribed by regulations of the Administrator shall be paid by the official agency to the Administrator for each such amendment, to cover the costs incurred by the Service in connection therewith, and it shall be deposited in the fund created in subsection (j) of this section.

(3) The Administrator may revoke a designation of an official agency whenever, after opportunity for hearing is afforded the agency, the Administrator determines that the agency has failed to meet one or more of the criteria specified in subsection (f) of this section or the regulations under this chapter for the performance of official functions, or otherwise has not complied with any provision of this chapter or any regulation prescribed or instruction issued to such agency under this chapter, or has been convicted of any violation of other Federal law involving the handling or official inspection of grain: *Provided*, That the Administrator may, without first affording the official agency an opportunity for a hearing, suspend any designation pending final determination of the proceeding whenever the Administrator has reason to believe there is cause for revocation of the designation and considers such action to be in the best interest of the official inspection system under this chapter. The Administrator shall afford any such agency an opportunity for a hearing within thirty days after temporarily suspending such designation.

(h) Official inspections at locations other than export port locations when designated official agencies are not available

If the Administrator determines that official inspection by an official agency designated under subsection (f) of this section is not available on a regular basis at any location (other than at an export port location) where the Administrator determines such inspection is needed to effectuate the objectives stated in section 74 of this title, and that no official agency within reasonable proximity to such location is willing to provide or has or can acquire adequate personnel and facilities for providing such service on an interim basis, official inspection shall be provided by authorized employees of the Service, and other persons licensed by the Administrator to perform official inspection functions, as provided in section 84 of this title, until such time as the service can be provided on a regular basis by an official agency.

(i) Official inspections in Canadian ports

The Administrator is authorized to cause official inspection under this chapter to be made, as provided in subsection (a) of section 77 of this title, in Canadian ports of United States export grain transshipped through Canadian ports, and pursuant thereto the Secretary is authorized to enter into an agreement with the Canadian Government for such inspection.

(j) Fees

(1) The Administrator shall, under such regulations as he may prescribe, charge and collect reasonable inspection fees to cover the estimated cost to the Service incident to the performance of official inspection except when the official inspection is performed by a designated official agency or by a State under a delegation of authority. The fees authorized by this subsection shall, as nearly as practicable and after taking into consideration any proceeds from the sale of samples, cover the costs of the Service incident to its performance of official inspection services in the United States and on United States grain in Canadian ports, including administrative and supervisory costs directly related to such official inspection of grain incurred outside the Service's Washington office. Such fees, and the proceeds from the sale of samples obtained for purposes of official inspection which become the property of the United States, shall be deposited into a fund which shall be available without fiscal year limitation for the expenses of the Service incident to providing services under this chapter.

(2) Each designated official agency and each State agency to which authority has been delegated under subsection (e) of this section shall pay to the Administrator fees in such amount as the Administrator determines fair and reasonable and as will cover the estimated costs incurred by the Service (outside of the Washington office) relating to direct supervision of official agency personnel and direct supervision by Service personnel of its field office personnel, except costs incurred under paragraph (3) of subsection (g) of this section and sections 85, 86, and 87c of this title. The fees shall be payable after the services are performed at such times as specified by the Administrator and shall be deposited in the fund created in paragraph (1) of this subsection. Failure to pay the fee within thirty days after it is due shall result in automatic termination of the delegation or designation, which shall be reinstated upon payment, within such period as specified by the Administrator, of the fee currently due plus interest and any further expenses incurred by the Service because of such termination.

(Aug. 11, 1916, ch. 313, part B, § 7, 39 Stat. 484; Aug. 15, 1968, Pub. L. 90-487, § 1, 82 Stat. 763; Oct. 21, 1976, Pub. L. 94-582, § 8(a), 90 Stat. 2870.)

REFERENCES IN TEXT

The Federal Property and Administrative Services Act of 1949, as amended, referred to in subsec. (c), is act June 30, 1949, ch. 288, 63 Stat. 377, as amended. The provisions of that act relating to management and disposal of government property are classified to chapter 10 (§ 471 et seq.) of Title 40, Public Buildings, Property, and Works. For complete classification of this Act to the Code, see Short Title note set out under section 471 of Title 40 and Tables volume.

CODIFICATION

Section as originally enacted was composed of part of section 7 of part B of act Aug. 11, 1916. Other provisions of section 7 were classified to former sections 80 to 83 of this title.

AMENDMENTS

1976—Subsec. (a). Pub. L. 94-582, § 8(a)(1), substituted "Administrator" for "Secretary".

Subsec. (b). Pub. L. 94-582, § 8(a)(1), (2), substituted "Administrator" for "Secretary" in two instances and deleted from first sentence "or with respect to United States grain in Canadian ports" following "within the United States".

Subsec. (c). Pub. L. 94-582, § 8(a)(1), (3), substituted "Administrator" for "Secretary" in two instances; and substituted "Service" for "Department of Agriculture" and "cancellation and surrender" for "cancellation" and required regulation provision for use of standard forms for official certificates, respectively.

Subsec. (d). Pub. L. 94-582, § 8(a)(4), substituted "Official certificates setting out the results of official inspection" for "Certificates".

Subsec. (e). Pub. L. 94-582, § 8(a)(5), added subsec. (e) and deleted former subsec. (e) which authorized charging and collection of reasonable fees to cover cost of official inspection and to cover costs of Department of Agriculture incident to performance of appeal and Canadian port inspection services for which fees are collected, including supervisory and administrative costs, and for deposit of fees and proceeds from sale of samples obtained for purposes of official inspection which become property of the United States into a fund to be available without fiscal year limitation for expenses of the Department of Agriculture incident to providing official inspection services. Fee provisions are now covered in subsec. (j)(2) of this section.

Subsec. (f). Pub. L. 94-582, § 8(a)(5), added par. (1) and second and third sentences of par. (2), and designated existing provisions as par. (2), substituting therein "one official agency for carrying out the provisions of this chapter shall be operative at one time for any geographic area as determined by the Administrator to effectuate the objectives stated in section 74 of this title" for "one inspection agency for carrying out the provisions of this section shall be operative at one time for any one city, town, or other area".

Subsecs. (g) to (j). Pub. L. 94-582, § 8(a)(5), added subsecs. (g) to (j).

1968—Pub. L. 90-487 substituted provisions covering the authority and funding of official inspections for provisions covering the licensing of inspectors and the utilization by the Secretary of Agriculture of State inspectors.

EFFECTIVE DATE OF 1976 AMENDMENT

For effective date of amendment by Pub. L. 94-582, see Effective Date of 1976 Amendment note under section 74 of this title.

EFFECTIVE DATE OF 1968 AMENDMENT

For effective date of amendment by Pub. L. 90-487, see section 2 of Pub. L. 90-487, set out as a note under section 78 of this title.

INVESTIGATIONS AND STUDIES OF GRAIN INSPECTION AND WEIGHING IN INTERIOR OF UNITED STATES; COMPLETION OF STUDIES AND SUBMISSION OF REPORTS BY MAY 20, 1978, AND NOVEMBER 20, 1978, RESPECTIVELY.

Section 8(b) of Pub. L. 94-582 provided that:

"(1) In order to provide information for use by the Congress in evaluating the needs of the grain inspection and weighing system at points in the United States other than at export port locations; the Administrator of the Federal Grain Inspection Service, the Director of the Office of Investigation of the United States Department of Agriculture (or such other organization or agency within the Department of Agriculture which may be delegated the authority, in lieu thereof, to conduct investigations on behalf of the Department of Agriculture), and the Comptroller General of the United States shall severally conduct investigations into and study grain inspection and weighing in the interior of the United States. The studies shall address, but are not limited to, the tasks of (A) determining the reliability and effectiveness of present official inspection and weighing procedures in the interior of the United States, and (B) evaluating the operating procedures and management practices of agencies providing grain inspection and weighing services in the interior of the United States, as they relate to the integrity and accuracy of the services.

"(2) The Director of the Office of Investigation specifically is directed to study the extent of any irregularities or problem areas under the present inspection and weighing systems and conflicts of interest rules and develop factual summaries of evidence disclosed in the Director's investigations into violations of the United States Grain Standards Act [this chapter], the grain weighing provisions of the United States Warehouse Act [section 241 et seq. of this title], and related provisions of title 18 of the United States Code: *Provided*, That the Director shall not submit such summary with respect to any criminal investigation which is pending at the time the report is due.

"(3) The Administrator of the Federal Grain Inspection Service shall make findings with respect to present grain inspection and weighing agencies at each inland terminal marketing area of the United States at which over fifty million bushels of grain are inspected in an average year, such findings to include (A) results of interviews with shippers who ship grain to and consignees who receive grain from such terminal marketing areas, and (B) a thorough analysis of inspection and weighing error rates of such agencies, based on existing documentation and the sampling during the investigation of a representative number of randomly selected lots of grain shipped to and from such terminal marketing areas.

"(4) The Director of the Office of Investigation and the Administrator of the Federal Grain Inspection Service shall complete their investigations and study and shall submit their reports to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture and Forestry of the Senate and the Comptroller General not later than eighteen months after the effective date of this Act [thirty days after Oct. 21, 1976].

"(5) The Comptroller General, in making his investigations and study, shall (A) assess the present grain inspection and weighing system in the interior of the United States, and (B) evaluate the reports submitted under this subsection by the Director of the Office of Investigation and the Administrator of the Federal Grain Inspection Service. The Comptroller General shall submit a report setting forth the findings of such study and evaluation and his recommendations for changes in the United States Grain Standards Act [this chapter] to such Committees not later than two years after the effective date of this Act [thirty days after Oct. 21, 1976]."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 75, 79a, 84, 87b, 87f-1, 87h of this title.

§ 79a. Weighing authority

(a) Official weighing in accordance with prescribed regulations

The Administrator shall cause official weighing under standards provided for in section 76 of this title to be made of all grain required to be officially weighed as provided in section 77 of this title, in accordance with such regulations as the Administrator may prescribe.

(b) Supervision of weighing at grain elevators, warehouses, or other storage or handling facilities located other than at export port locations

The Administrator is authorized to cause supervision of weighing under standards provided in section 76 of this title to be performed at any grain elevator, warehouse, or other storage or handling facility located other than at export port locations at which official inspection is

provided pursuant to the provisions of this chapter, in such manner as the Administrator deems appropriate and under such regulations as the Administrator may provide.

(c) Personnel performing official weighing or supervision of weighing at locations at which official inspection is provided

(1) With respect to official weighing or supervision of weighing for locations at which official inspection is provided by the Service, the Administrator shall cause such official weighing or supervision of weighing to be performed by official inspection personnel employed by the Service.

(2) With respect to official weighing or supervision of weighing for any location at which official inspection is provided other than by the Service, the Administrator is authorized, with respect to export port locations, to delegate authority to perform official weighing to the State agency providing official inspection service at such location, and with respect to any other location, to designate the agency or person providing official inspection service at such location to perform supervision of weighing, if such agency or person qualifies for a delegation of authority or designation number section 79 of this title, except that where the term "official inspection" is used in such section it shall be deemed to refer to "official weighing" or "supervision of weighing" under this section. If such agency or person is not available to perform such weighing services, or the Administrator determines that such agency or person is not qualified to perform such weighing services, then (A) at export elevators at export port locations official weighing shall be performed by official inspection personnel employed by the Service, and (B) at any other location, the Administrator is authorized to cause supervision of weighing to be performed by official inspection personnel employed by the Service or designate any State or local governmental agency, or any person to perform supervision of weighing, if such agency or person meets the same criteria that agencies must meet to be designated to perform official inspection as set out in section 79 of this title, except that where the term "official inspection" is used in such section it shall be deemed to refer to "supervision of weighing" under this section. Delegations and designations made pursuant to this subsection shall be subject to the same provisions for delegations and designations set forth in subsection (g) of section 79 of this title.

(d) Official weighing in Canadian ports

The Administrator is authorized to cause official weighing under this chapter to be made, as provided in subsection (a) of section 77 of this title, in Canadian ports of United States export grain transshipped through Canada; and pursuant thereto the Secretary is authorized to enter into an agreement with the Canadian Government for such official weighing.

(e) Official weighing or supervision of weighing upon request of operators of grain elevators, warehouses, or other storage or handling facilities

The Administrator is further authorized to cause official weighing or supervision of weighing under standards provided for in section 76 of this title to be made at grain elevators, warehouses, or other storage or handling facilities not subject to subsection (a) or (b) of this section, upon request of the operator of such grain elevator, warehouse, or other storage or handling facility and in accordance with such regulations as he may prescribe. Such weighing service shall not be provided for periods of less than one year; and the fees therefor shall be set separately from those fees provided for in subsection (*l*) of this section and shall be reasonable, nondiscriminatory, and equal, as nearly as possible, to the cost of providing such services.

(f) Demonstrated willingness of operators of grain elevators, warehouses, or other storage or handling facilities to meet equipment and personnel requirements

No official weighing or supervision of weighing shall be provided for the purposes of this chapter at any grain elevator, warehouse, or other storage or handling facility until such time as the operator of the facility has demonstrated to the satisfaction of the Administrator that the operator (1) has and will maintain, in good order, suitable grain-handling equipment and accurate scales for all weighing of grain at the facility, in accordance with the regulations of the Administrator; (2) will employ only competent persons with a reputation for honesty and integrity to operate the scales and to handle grain in connection with weighing of the grain, in accordance with this chapter; (3) when weighing is to be done by employees of the facility, will require employees to operate the scales in accordance with the regulations of the Administrator and to require that each lot of grain for delivery from any railroad car, truck, barge, vessel, or other means of conveyance at the facility is entirely removed from such means of conveyance and delivered to the scales without avoidable waste or loss, and each lot of grain weighed at the elevator for shipment from the facility is entirely delivered to the means of conveyance for which intended, and without avoidable waste or loss, in accordance with the regulations of the Administrator; (4) will provide all assistance needed by the Administrator for making any inspection or examination and carrying out other functions at the facility pursuant to this chapter; and (5) will comply with all other requirements of this chapter and the regulations hereunder.

(g) Official certificates as evidence

Official certificates setting out the results of official weighing, issued and not cancelled under this chapter, shall be received by all officers and all courts of the United States as prima facie evidence of the truth of the facts stated therein.

(h) Weighing prohibited when not in accordance with prescribed procedures

No State or local governmental agency or person shall weigh or state in any document the weight of grain determined at a location where official weighing is required to be performed as provided for in this section except in accordance with the procedures prescribed pursuant to this section.

(i) Unauthorized weighing prohibited

No State or person other than an authorized employee of the Service shall perform official weighing or supervision of weighing for the purposes of this chapter except in accordance with the provisions of an unsuspended and unrevoked delegation of authority or designation by the Administrator as provided in this section.

(j) Authority under United States Warehouse Act not limited

The provisions of this section shall not limit any authority vested in the Secretary under the United States Warehouse Act (39 Stat. 486, as amended; 7 U.S.C. 241 et seq.).

(k) Access to elevators, warehouses, or their storage or handling facilities

The representatives of the Administrator shall be afforded access to any elevator, warehouse, or other storage or handling facility from which grain is delivered for shipment in interstate or foreign commerce or to which grain is delivered from shipment in interstate or foreign commerce and all facilities therein for weighing grain.

(*l*) Fees

(1) The Administrator shall, under such regulations as he may prescribe, charge and collect reasonable fees to cover the estimated costs to the Service incident to the performance of the functions provided for under this section except as otherwise provided in paragraph (2) of this subsection. The fees authorized by this paragraph shall, as nearly as practicable, cover the costs of the Service (outside of the Washington office) incident to performance of its functions related to weighing, including administrative and supervisory costs directly related thereto. Such fees shall be deposited into the fund created in section 79(j) of this title.

(2) Each agency to which authority has been delegated under this section and each agency or other person which has been designated to perform functions related to weighing under this section shall pay to the Administrator fees in such amount as the Administrator determines fair and reasonable and as will cover the costs incurred by the Service (outside of the Washington office) relating to direct supervision of the agency personnel and direct supervision by Service personnel of its field office personnel incurred as a result of the functions performed by such agencies, except costs incurred under section 79(g)(3), 85, 86, and 87c of this title. The fees shall be payable after the services are performed at such times as specified by the Administrator and shall be deposited in the fund created in section 79(j) of this title. Failure to pay the fee within thirty days after it is due shall result in automatic termination of the delegation or designation, which shall be reinstated upon payment, within such period as specified by the Administrator, of the fee currently due plus interest and any further expenses incurred by the Service because of such termination.

(Aug. 11, 1916, ch. 313, part B, § 7A, as added Oct. 21, 1976, Pub. L. 94-582, § 9, 90 Stat. 2875.)

EFFECTIVE DATE

For effective date of section, see Effective Date of 1976 Amendment note under section 74 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 75, 84, 87, 87h of this title.

§ 79b. Testing of equipment

(a) Random and periodic testing at least annually

The Administrator shall provide for the testing of all equipment used in the sampling, grading, inspection, and weighing of grain located at all grain elevators, warehouses, or other storage or handling facilities at which official inspection or weighing services are provided under this chapter, to be made on a random and periodic basis, but at least annually and under such regulations as the Administrator may prescribe, as he deems necessary to assure the accuracy and integrity of such equipment.

(b) Personnel to conduct testing

The Administrator is authorized to cause such testing provided for in subsection (a) of this section to be performed (1) by personnel employed by the Service, or (2) by States, political subdivisions thereof, or persons under the supervision of the Administrator, under such regulations as the Administrator may prescribe.

(c) Use of non-approved equipment prohibited

Notwithstanding any other provision of law, no person shall use any such equipment not approved by the Administrator.

(Aug. 11, 1916, ch. 313, part B, § 7B, as added Oct. 21, 1976, Pub. L. 94-582, § 9, 90 Stat. 2877.)

EFFECTIVE DATE

For effective date of section, see Effective Date of 1976 Amendment note under section 74 of this title.

§§ 80 to 83. Omitted

CODIFICATION

Sections were omitted in the general reorganization of this chapter by Pub. L. 90-487, § 1, Aug. 15, 1968, 82 Stat. 761.

Section 80, act Aug. 11, 1916, ch. 313, pt. B, § 7 (part), 39 Stat. 484, provided for the revocation and suspension of licenses issued by the Secretary of Agriculture. See section 85 of this title.

Section 81, act Aug. 11, 1916, ch. 313, pt. B, § 7 (part), 39 Stat. 484, prohibited the existence of an interest, financial or otherwise, direct or indirect, on the part of inspectors in grain elevators or warehouses or in the merchandising of grain. See section 87 of this title.

Section 82, act Aug. 11, 1916, ch. 313, pt. B, § 7 (part), 39 Stat. 484, required the maintenance of records and reports by inspectors. See section 87a of this title.

Section 83, act Aug. 11, 1916, ch. 313, pt. B, § 7 (part), 39 Stat. 484, called for a semiannual report by the Secretary of Agriculture on the delivery of grain in the nation.

§ 84. Licensing of inspectors

(a) Authorization

The Administrator is authorized (1) to issue a license to any individual upon presentation to him of satisfactory evidence that such individual is competent, and is employed by an official agency or a State agency delegated authority under section 79 or 79a of this title, to perform all or specified functions involved in original in-

spection or reinspection functions involved in official inspection, or in the official weighing or the supervision of weighing of grain in the United States; (2) to authorize any competent employee of the Service to (A) perform all or specified original inspection, reinspection, or appeal inspection functions involved in official inspection of grain in the United States, or of United States grain in Canadian ports, (B) perform official weighing or supervision of weighing of grain, (C) supervise the official inspection, official weighing, or supervision of weighing of grain in the United States and of United States grain in Canadian ports or the testing of equipment, and (D) perform monitoring activities in foreign ports with respect to grain officially inspected and officially weighed under this chapter; (3) to contract with any person to perform specified sampling and laboratory testing and to license competent persons to perform such functions pursuant to such contract; and (4) to contract with any competent person for the performance of monitoring activities in foreign ports with respect to grain officially inspected and officially weighed under this chapter. No person shall perform any official inspection or weighing function for purposes of this chapter unless such person holds an unsuspended and unrevoked license or authorization from the Administrator under this chapter.

(b) Duration of licenses; suspension; reinstatement

All classes of licenses issued under this chapter shall terminate triennially on a date or dates to be fixed by regulation of the Administrator: *Provided,* That any license shall be suspended automatically when the licensee ceases to be employed by an official agency or by a State agency under a delegation of authority pursuant to this chapter or to operate independently under the terms of a contract for the conduct of any functions involved in official inspection under this chapter: *Provided further,* That subject to subsection (c) of this section such license shall be reinstated if the licensee is employed by an official agency or by a State agency under a delegation of authority pursuant to this chapter or resumes operation under such a contract within one year of the suspension date and the license has not expired in the interim.

(c) Examination of applicants; reexaminations

The Administrator may require such examinations and reexaminations as he may deem warranted to determine the competence of any applicants for licenses, licensees, or employees of the Service, to perform any official inspection or weighing function under this chapter.

(d) Inspectors performing under contract not deemed Federal employees

Persons employed by an official agency (including persons employed by a State agency under a delegation of authority pursuant to this chapter) and persons performing official inspection functions under contract with the Service shall not, unless otherwise employed by the Federal Government, be determined to be employees of the Federal Government of the United States: *Provided,* That such persons shall be considered in the performance of any official inspection, official weighing, or supervision of weighing function as prescribed by this chapter or by the rules and regulations of the Administrator, as persons acting for or on behalf of the United States, for the purpose of determining the application of section 201 of title 18, to such persons and as employees of the Department of Agriculture assigned to perform inspection functions for the purposes of sections 1114 and 111 of title 18.

(e) Hiring of official inspection personnel and supervisory personnel without regard to laws governing appointments to the competitive service

The Administrator may hire (without regard to the provisions of title 5 governing appointments in the competitive service) as official inspection personnel any individual who is licensed (on October 21, 1976) to perform functions of official inspection under this chapter and as personnel to perform supervisory weighing or official weighing functions any individual who, on October 21, 1976, was performing similar functions: *Provided,* That the Administrator determines that such individual is of good moral character and is technically and professionally qualified for the duties to which the individual will be assigned.

(f) Periodic rotation of personnel

The Administrator shall provide for the periodic rotation of supervisory personnel and official inspection personnel employed by the Service as he deems necessary to preserve the integrity of the official inspection system provided by this chapter.

(g) Recruitment, training, and supervision of personnel; work production standards; exemption for certain personnel

The Administrator shall develop and effectuate standards for the recruiting, training, and supervising of official inspection personnel and appropriate work production standards for such personnel, which shall be applicable to the Service, all State agencies under delegation of authority pursuant to this chapter, and all official agencies and all persons licensed or authorized to perform functions under this chapter: *Provided,* That persons licensed or authorized on October 21, 1976, to perform any official function under this chapter, shall be exempted from the uniform recruiting and training provisions of this subsection and regulations or standards issued pursuant thereto if the Administrator determines that such persons are technically and professionally qualified for the duties to which they will be assigned and they agree to complete whatever additional training the Administrator deems necessary.

(Aug. 11, 1916, ch. 313, part B, § 8, 39 Stat. 485; Aug. 15, 1968, Pub. L. 90-487, § 1, 82 Stat. 764; Oct. 21, 1976, Pub. L. 94-582, § 10, 90 Stat. 2877.)

REFERENCES IN TEXT

The provisions of title 5 governing appointments in the competitive service, referred to in subsec. (e), are classified to section 3301 et seq. of Title 5, Government Organization and Employees.

AMENDMENTS

1976—Subsec. (a). Pub. L. 94-582 substituted "Administrator" for "Secretary" in two instances; designated existing provisions as item (1) and substituted therein "official agency or a State agency delegated

authority under section 79 or 79a of this title, to perform all or specified functions involved in original inspection or reinspection functions involved in official inspection, or in the official weighing or the supervision of weighing of grain in the United States" for "official inspection agency to perform all or specified functions involved in official inspection"; substituted provisions designated as item (2) for "to authorize any competent employee of the Department of Agriculture to perform all or specified functions involved in supervisory or appeal inspection or initial inspection of United States grain in Canadian ports"; added items (3) and (4); deleted authorization to license any competent individual to perform specified functions involved in official inspection under a contract with the Department of Agriculture; and conditioned performance of any official weighing function on the holding of a license or authorization.

Subsec. (b). Pub. L. 94-582 substituted "Administrator" for "Secretary", "official agency" for "official inspection agency" in two instances, and "subsection (c)" for "paragraph (c)", and inserted provision respecting employment of licensee by a State agency under a delegation of authority pursuant to this chapter in two instances.

Subsec. (c). Pub. L. 94-582 substituted "Administrator" for "Secretary" and "Service" for "Department of Agriculture" and included performance of weighing function.

Subsec. (d). Pub. L. 94-582 substituted "official agency (including persons employed by a State agency under a delegation of authority pursuant to this chapter)" for "official inspection agency" and "contract with the Service" for "contracts with the Department of Agriculture" and added provision respecting status as persons acting for or on behalf of the United States in application of sections 118, 201, and 1114 of Title 18.

Subsecs. (e) to (g). Pub. L. 94-582 added subsecs. (e) to (g).

1968—Pub. L. 90-487 substituted provisions for the licensing and examination and reexamination of inspectors for provisions authorizing the Secretary of Agriculture to promulgate rules and regulations.

EFFECTIVE DATE OF 1976 AMENDMENT

For effective date of amendment by Pub. L. 94-582, see Effective Date of 1976 Amendment note under section 74 of this title.

EFFECTIVE DATE OF 1968 AMENDMENT

For effective date of amendment by Pub. L. 90-487, see section 2 of Pub. L. 90-487, set out as a note under section 78 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 75, 77, 79, 87b of this title.

§ 85. Suspension, revocation, and refusal to renew licenses; hearing; grounds; temporary suspension

The Administrator may refuse to renew, or may suspend or revoke, any license issued under this chapter whenever, after the licensee has been afforded an opportunity for a hearing, the Administrator shall determine that such licensee is incompetent, or has inspected or weighed or supervised the weighing of grain for purposes of this chapter, by any standard or criteria other than as provided for in this chapter, or has issued, or caused the issuance of, any false or incorrect official certificate or other official form, or has knowingly or carelessly inspected or weighed or supervised the weighing of grain improperly under this chapter, or has accepted any money or other consideration, directly or indirectly, for any neglect or improper performance of duty, or has used his license or allowed it to be used for any improper purpose, or has otherwise violated any provision of this chapter or of the regulations prescribed or instructions issued to him by the Secretary under this chapter. The Administrator may, without first affording the licensee an opportunity for a hearing, suspend any license temporarily pending final determination whenever the Administrator deems such action to be in the best interests of the official inspection system under this chapter. The Administrator may summarily revoke any license whenever the licensee has been convicted of any offense prohibited by section 87b of this title or convicted of any offense proscribed by title 18, with respect to performance of functions under this chapter.

(Aug. 11, 1916, ch. 313, part B, § 9, 39 Stat. 485; Aug. 1, 1956, ch. 812, 70 Stat. 780; Aug. 15, 1968; Pub. L. 90-487, § 1, 82 Stat. 765; Oct. 21, 1976, Pub. L. 94-582, § 11, 90 Stat. 2879.)

AMENDMENTS

1976—Pub. L. 94-582 substituted "Administrator" for "Secretary" wherever appearing and "inspected or weighed or supervised the weighing of" for "inspected" in two instances and authorized summary revocation of licenses based on conviction of prescribed offenses.

1968—Pub. L. 90-487 substituted provisions authorizing the suspension, revocation, and refusal of renewal of licenses by the Secretary, for provisions setting out the penalties for violations of this chapter.

1956—Act Aug. 1, 1956, provided penalties for persons who knowingly sample grain improperly and for persons who knowingly or willfully cause or attempt to cause the issuance of a false grade certificate by deceptive loading, handling, or sampling of grain, or any other means.

EFFECTIVE DATE OF 1976 AMENDMENT

For effective date of amendment by Pub. L. 94-582, see Effective Date of 1976 Amendment note under section 74 of this title.

EFFECTIVE DATE OF 1968 AMENDMENT

For effective date of amendment by Pub. L. 90-487, see section 2 of Pub. L. 90-487, set out as a note under section 78 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 79, 79a, 87e of this title.

§ 86. Refusal of inspection and weighing services; civil penalties

(a) Grounds for refusal of services

The Administrator may (for such period, or indefinitely, as he deems necessary to effectuate the purposes of this chapter) refuse to provide official inspection or the services related to weighing otherwise available under this chapter with respect to any grain offered for such services, or owned, wholly or in part, by any person if he determines (1) that the individual (or in case such person is a partnership, any general partner; or in case such person is a corporation, any officer, director, or holder or owner of more than 10 per centum of the voting stock; or in case such person is an unincorporated association or other business entity, any officer or director thereof; or in case of any such business entity, any individual who is otherwise responsibly connected with the business) has knowingly committed any violation of sec-

tion 87b of this title, or has been convicted of any violation of other Federal law with respect to the handling, weighing, or official inspection of grain, or that official inspection or the services related to weighing have been refused for any of the above-specified causes (for a period which has not expired) to such person, or any other person conducting a business with which the former was, at the time such cause existed, or is responsibly connected; and (2) that providing such service with respect to such grain would be inimical to the integrity of the service.

(b) Persons responsibly connected with a business

For purposes of subsection (a) of this section, a person shall be deemed to be responsibly connected with a business if he was or is a partner, officer, director, or holder or owner of 10 per centum or more of its voting stock, or an employee in a managerial or executive capacity.

(c) Civil penalties

In addition to, or in lieu of, penalties provided under section 87c of this title, or in addition to, or in lieu of, refusal of official inspection or services related to weighing in accordance with this section, the Administrator may assess against any person who has knowingly committed any violation of section 87b of this title or has been convicted of any violation of other Federal law with respect to the handling, weighing, or official inspection of grain a civil penalty not to exceed $75,000 for each such violation as the Administrator determines is appropriate to effectuate the objectives stated in section 74 of this title.

(d) Opportunity for hearing; temporary refusal without hearing pending final determination

Before official inspection or services related to weighing is refused to any person or a civil penalty is assessed against any person under this section, such person shall be afforded opportunity for a hearing in accordance with sections 554, 556, and 557 of title 5: *Provided,* That the Administrator may, without first affording the person a hearing, refuse official inspection or services related to weighing temporarily pending final determination whenever the Administrator has reason to believe there is cause for refusal of inspection or services related to weighing and considered such action to be in the best interest of the official inspection system under this chapter. The Administrator shall afford such person an opportunity for a hearing within seven days after temporarily refusing official inspection or services related to weighing; and such hearing and ancillary procedures related thereto shall be conducted in an expedited manner.

(e) Collection and disposition of civil penalties

Moneys received in payment of such civil penalties shall be deposited in the general fund of the United States Treasury. Upon any failure to pay the penalties assessed under this section, the Administrator may request the Attorney General of the United States to institute a civil action to collect the penalties in the appropriate court identified in subsection (h) of section 87 of this title for the jurisdiction in which the respondent is found or resides or transacts business, and such court shall have jurisdiction to hear and decide any such action.

(Aug. 11, 1916, ch. 313, part B, § 10, 39 Stat. 485; Aug. 15, 1968, Pub. L. 90-487, § 1, 82 Stat. 765; Oct. 21, 1976, Pub. L. 94-582, § 12, 90 Stat. 2879.)

AMENDMENTS

1976—Subsec. (a). Pub. L. 94-582 substituted "Administrator" for "Secretary", "grain offered for such services" for "grain offered for inspection", "has knowingly committed any violation of section 87b of this title or has been convicted of any violation of other Federal law with respect to the handling, weighing, or official inspection of grain, or that official inspection or the services related to weighing have been refused" for "has been convicted of any violation of section 87b of this title, or that official inspection has been refused", and "integrity of the service" for "integrity of the official inspection service", and authorized refusal of provision of services relating to weighing.

Subsec. (c). Pub. L. 94-582 added subsec. (c). Former subsec. (c) redesignated (d).

Subsec. (d). Pub. L. 94-582 redesignated provisions of former subsec. (c) as (d), inserted "or services related to weighing" preceding "is refused", inserted "or a civil penalty is assessed against any person under this section" following "to any person", provided for the hearing under sections 554, 556, and 557 of Title 5, and added provisions relating to temporary refusal without hearing pending final determination.

Subsec. (e). Pub. L. 94-582 added subsec. (e).

1968—Pub. L. 90-487 substituted provisions authorizing the Secretary to refuse official inspection and affording an opportunity for a hearing in such a case, for provisions setting the penalty for interference with the execution of official duties.

EFFECTIVE DATE OF 1976 AMENDMENT

For effective date of amendment by Pub. L. 94-582, see Effective Date of 1976 Amendment note under section 74 of this title.

EFFECTIVE DATE OF 1968 AMENDMENT

For effective date of amendment by Pub. L. 90-487, see section 2 of Pub. L. 90-487, set out as a note under section 78 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 79, 79a, 87c of this title.

§ 87. Conflicts of interest

(a) Prohibition with respect to persons licensed or authorized by Administrator to perform official functions

No person licensed or authorized by the Administrator to perform any official function under this chapter, or employed by the Administrator in otherwise carrying out any of the provisions of this chapter, shall, during the term of such license, authorization, or employment, (a) be financially interested (directly or otherwise) in any business entity owning or operating any grain elevator or warehouse or engaged in the merchandising of grain, or (b) be in the employment of, or accept gratuities from, any such entity, or (c) be engaged in any other kind of activity specified by regulation of the Administrator as involving a conflict of interest: *Provided, however,* That the Administrator may license qualified employees of any grain elevators or warehouses to perform offical sampling functions, under such conditions as the Administrator may by regulation pre-

scribe, and the Administrator may by regulation provide such other exceptions to the restrictions of this section as he determines are consistent with the purposes of this chapter.

(b) Prohibition with respect to personnel of official or State agencies and business or governmental entities related to such agencies; substantial stockholder; use of official inspection service; authority delegation; report to Congressional committees

(1) No official agency or a State agency delegated authority under this chapter, or any member, director, officer, or employee thereof, and no business or governmental entity related to any such agency, shall be employed in or otherwise engaged in, or directly or indirectly have any stock or other financial interest in, any business involving the commercial transportation, storage, merchandising, or other commercial handling of grain, or the use of official inspection service (except that in the case of a producer such use shall not be prohibited for grain in which he does not have an interest); and no business or governmental entity conducting any such business, or any member, director, officer, or employee thereof, and no other business or governmental entity related to any such entity, shall operate or be employed by or directly or indirectly have any stock or other financial interest in, any official agency or a State agency delegated inspection authority. Further, no substantial stockholder in any incorporated official agency shall be employed in or otherwise engaged in, or be a substantial stockholder in any corporation conducting any such business, or directly or indirectly have any other kind of financial interest in any such business; and no substantial stockholder in any corporation conducting such a business shall operate or be employed by or be a substantial stockholder in, or directly or indirectly have any other kind of financial interest in, any official agency.

(2) A substantial stockholder of a corporation shall be any person holding 2 per centum or more, or one hundred shares or more, of the voting stock of the corporation, whichever is the lesser interest. Any entity shall be considered to be related to another entity if it owns or controls, or is owned or controlled by, such other entity, or both entities are owned or controlled by another entity.

(3) Each State agency delegated official weighing authority under section 79a of this title and each State or local agency or other person designated by the Administrator under such section to perform supervision of weighing shall be subject to the provisions of subsection (b) of this section. The term "use of official inspection service" shall be deemed to refer to the use of the services provided under such a delegation or designation.

(4) If a State or local governmental agency is delegated authority to perform official inspection or official weighing, or a State or local governmental agency is designated as an official agency, the Administrator shall specify the officials and other personnel thereof to which the conflict of interest provisions of this subsection (b) apply.

(5) Notwithstanding the foregoing provisions of this subsection, the Administrator may delegate authority to a State agency or designate a governmental agency, board of trade, chamber of commerce, or grain exchange to perform official inspection or perform supervision of weighing except that for purposes of supervision of weighing only, he may also designate any other person, if he determines that any conflict of interest which may exist between the agency or person or any member, officer, employee, or stockholder thereof and any business involving the transportation, storage, merchandising, or other handling of grain or use of official inspection or weighing service is not such as to jeopardize the integrity or the effective and objective operation of the functions performed by such agency. Whenever the Administrator makes such a determination and makes a delegation or designation to an agency that has a conflict of interest otherwise prohibited by this subsection, the Administrator shall, within thirty days after making such a determination, submit a report to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate, detailing the factual bases for such determination.

(c) Official agencies not prevented from engaging in business of weighing grain

The provisions of this section shall not prevent an official agency from engaging in the business of weighing grain.

(Aug. 11, 1916, ch. 313, part B, § 11, 39 Stat. 485; Aug. 15, 1968, Pub. L. 90-487, § 1, 82 Stat. 766; Oct. 21, 1976, Pub. L. 94-582, § 13, 90 Stat. 2880; S. Res. 4, Feb. 4, 1977.)

AMENDMENTS

1976—Subsec. (a). Pub. L. 94-582, § 13(a)-(c), substituted "Administrator" for "Secretary" wherever appearing and "perform any official function" for "perform any official inspection function", and designated first paragraph provisions, as amended, as subsec. (a), respectively.

Subsecs. (b), (c). Pub. L. 94-582, § 13(c), added subsecs. (b) and (c).

1968—Pub. L. 90-487 substituted provisions prohibiting a conflict of interest on the part of inspectors who are interested financially in a grain elevator or in grain merchandising, for provisions covering the separability of provisions of this chapter.

CHANGE OF NAME

The Committee on Agriculture and Forestry of the Senate was abolished and replaced by the Committee on Agriculture, Nutrition, and Forestry of the Senate, effective Feb. 11, 1977. See Rule XXV of the Standing Rules of the Senate, as amended by Senate Resolution 4 (popularly cited as the "Committee System Reorganization Amendments of 1977"), approved Feb. 4, 1977.

EFFECTIVE DATE OF 1976 AMENDMENT

For effective date of amendment by Pub. L. 94-582, see Effective Date of 1976 Amendment note under section 74 of this title.

EFFECTIVE DATE OF 1968 AMENDMENT

For effective date of amendment by Pub. L. 90-487, see section 2 of Pub. L. 90-487, set out as a note under section 78 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 79, 86, 87b of this title.

§ 87a. Records

(a) Samples of grain

Every official agency and every person licensed to perform any official inspection or official weighing or supervision of weighing function under this chapter shall maintain such samples of officially inspected grain and such other records as the Administrator may by regulation prescribe for the purpose of administration and enforcement of this chapter.

(b) Period of maintenance

Every official agency and every person licensed to perform any offical inspection or official weighing or supervision of weighing function under this chapter required to maintain records under this section shall keep such records for a period of five years after the inspection, weighing, or transaction, which is the subject of the record, occurred: *Provided*, That grain samples shall be required to be maintained only for such period not in excess of ninety days as the Administrator, after consultation with the grain trade and taking into account the needs and circumstances of local markets, shall prescribe; and in specific cases other records may be required by the Administrator to be maintained for not more than three years in addition to the five-year period whenever in his judgment the retention of such records for the longer period is necessary for the effective administration and enforcement of this chapter.

(c) Access to records; audits

Every official agency and every person licensed to perform any official inspection or official weighing or supervision of weighing function under this chapter required to maintain records under this section shall permit any authorized representative of the Secretary or Administrator or the Comptroller General of the United States to have access to, and to copy, such records at all reasonable times. The Administrator shall, from time to time, perform audits of official agencies and State agencies delegate authority of this chapter in such manner and at such periodic intervals as he deems appropriate.

(d) Maintenance of records by persons or entities receiving official inspection or weighing services; access to records and facilities

Every State, political subdivision thereof, or person who is the owner or operator of a commercial grain elevator, warehouse, or other storage or handling facility or is engaged in the merchandising of grain other than as a producer, and who, at any time, has obtained or obtains official inspection or weighing services shall, within the five-year period thereafter, maintain complete and accurate records of purchases, sales, transportation, storage, weighing, handling, treating, cleaning, drying, blending, and other processing, and official inspection and official weighing of grain, and permit any authorized representative of the Secretary or the Administrator, at all reasonable times, to have access to, and to copy, such records and to have access to any grain elevator, warehouse, or other storage or handling facility used by such persons for handling of grain.

(Aug. 11, 1916, ch. 313, part B, § 12, as added Aug. 15, 1968, Pub. L. 90-487, § 1, 82 Stat. 766, and amended Oct. 21, 1976, Pub. L. 94-582, § 14, 90 Stat. 2882.)

AMENDMENTS

1976—Subsec. (a). Pub. L. 94-582 substituted "official agency" for "official inspection agency" and "Administrator" for "Secretary" and inserted reference to licensed performance of official weighing or supervision of weighing function.

Subsec. (b). Pub. L. 94-582 substituted "Every official agency and every person licensed to perform any official inspection or official weighing or supervision of weighing function under this chapter" for "Every official inspection agency" and "Administrator" for "Secretary" in two instances, increased from two to five years the period of time for keeping the records, and inserted provision for keeping the records after the weighing.

Subsec. (c). Pub. L. 94-582 substituted "Every official agency and every person licensed to perform any official inspection or official weighing or supervision of weighing function under this chapter" for "Every official inspection agency", provided for access to and the copying of records by any authorized representative of the Administrator or the Comptroller General, and required Administrator audits of official agencies and State agencies delegate authority.

Subsec. (d). Pub. L. 94-582 added subsec. (d).

EFFECTIVE DATE OF 1976 AMENDMENT

For effective date of amendment by Pub. L. 94-582, see Effective Date of 1976 Amendment note under section 74 of this title.

EFFECTIVE DATE

For effective date of section, see section 2 of Pub. L. 90-487, set out as a note under section 78 of this title.

PRIOR PROVISIONS

A prior section 12 of Act Aug. 11, 1916, ch. 313, pt. B, 39 Stat. 485, which appropriated a sum of $250,000 for expenses of carrying into effect this chapter, was not classified to the Code.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 87b of this title.

§ 87b. Prohibited acts

(a) No person shall—

(1) knowingly falsely make, issue, alter, forge, or counterfeit any official certificate or other official form or official mark;

(2) knowingly utter, publish, or use as true any falsely made, issued, altered, forged, or counterfeited official certificate or other official form or official mark, or knowingly possess, without promptly notifying the Administrator or his representative, or fail to surrender to such a representative upon demand, any falsely made, issued, altered, forged, or counterfeited official certificate or other official form, or any device for making any official mark or simulation thereof, or knowingly possess any grain in a container bearing any falsely made, issued, altered, forged, or counterfeited official mark without promptly giving such notice;

(3) knowingly cause or attempt (whether successfully or not) to cause the issuance of a false or incorrect official certificate or other official form by any means, including but not limited to deceptive loading, handling, weighing, or sampling of grain, or submitting grain for official inspection or official weighing or supervision of weighing knowing that it has been deceptively loaded, handled, weighed, or

sampled, without disclosing such knowledge to the official inspection personnel before official sampling or official weighing or supervision of weighing;

(4) alter any official sample of grain in any manner or, knowing that an official sample has been altered, thereafter represent it as an official sample;

(5) knowingly use any official grade designation or official mark on any container of grain by means of a tag, label, or otherwise, unless the grain in such container was officially inspected on the basis of an official sample taken while the grain was being loaded into or was in such container or officially weighed, respectively, and the grain was found to qualify for such designation or mark;

(6) knowingly make any false representation that any grain has been officially inspected, or officially inspected and found to be of a particular kind, class, quality, condition, or quantity, or that particular facts have been established with respect to grain by official inspection under this chapter;

(7) improperly influence, or attempt to improperly influence, any official inspection personnel or personnel of agencies delegated authority or of agencies or other persons designated under this chapter or any officer or employee of the Department of Agriculture with respect to the performance of his duties under this chapter;

(8) forcibly assault, resist, oppose, impede, intimidate, or interfere with any official inspection personnel or personnel of agencies delegated authority or of agencies or other persons designated under this chapter or any officer or employee of the Department of Agriculture in, or on account of, the performance of his duties under this chapter;

(9) falsely represent that he is licensed or authorized to perform an official inspection or official weighing or supervision of weighing function under this chapter;

(10) use any false or misleading means in connection with the making or filing of an application for official inspection or official weighing or supervision of weighing;

(11) violate any provision of section 77, 78, 79(f)(2), 79a, 79b, 84, 87, or 87a of this title;

(12) knowingly engage in falsely stating or falsifying the weight of any grain shipped in interstate or foreign commerce by any means, including, but not limited to, the use of inaccurate, faulty, or defective testing equipment; or

(13) knowingly prevent or impede any buyer or seller of grain or other person having a financial interest in the grain, or the authorized agent of any such person, from observing the loading of grain inspected under this chapter and the weighing, sampling, and inspection of such grain under conditions prescribed by the Administrator.

(b) No person licensed or authorized to perform any function under this chapter shall—

(1) commit any offense prohibited by subsection (a) of this section;

(2) knowingly perform improperly any official sampling or other official inspection or weighing function under this chapter;

(3) knowingly execute or issue any false or incorrect official certificate or other official form; or

(4) accept money or other consideration, directly or indirectly, for any neglect or improper performance of duty.

(c) An offense shall be deemed to have been committed knowingly under this chapter if it resulted from gross negligence or was committed with knowledge of the pertinent facts.

(Aug. 11, 1916, ch. 313, part B, § 13, as added Aug. 15, 1968, Pub. L. 90-487, § 1, 82 Stat. 766, and amended Oct. 21, 1976, Pub. L. 94-582, § 15, 90 Stat. 2883.)

AMENDMENTS

1976—Subsec. (a)(1). Pub. L. 94-582, § 15(a)(1), substituted "official mark" for "official inspection mark".

Subsec. (a)(2). Pub. L. 94-582, § 15(a)(2), substituted "official mark" for "official inspection mark" in three instances, "official certificate" for "official inspection certificate" and "Administrator" for "Secretary".

Subsec. (a)(3). Pub. L. 94-582, § 15(a)(2), prohibited deceptive weighing of grain or submitting grain for official weighing or supervision of weighing knowing it has been deceptively weighed without disclosure before official weighing or supervision of weighing.

Subsec. (a)(5). Pub. L. 94-582, § 15(a)(3), substituted "official mark" for "official inspection mark" and inserted "or officially weighed, respectively," following "such container".

Subsecs. (a)(7), (8). Pub. L. 94-582, § 15(a)(4), inserted in pars. (7) and (8) following "personnel" the words "or personnel of agencies delegated authority or of agencies or other persons designated under this chapter".

Subsec. (a)(9). Pub. L. 94-582, § 15(a)(5), inserted following "official inspection" the words "or official weighing or supervision of weighing".

Subsec. (a)(10). Pub. L. 94-582, § 15(a)(5), (6), inserted following "official inspection" the words "or official weighing or supervision of weighing" and deleted the end word "or".

Subsec. (a)(11). Pub. L. 94-582, § 15(a)(5), inserted after "sections 77, 78," references to "79(f)(2), 79a, 79b(c)".

Subsecs. (a)(12), (13). Pub. L. 94-582, § 15(a)(6), added pars. (12) and (13).

Subsec. (b)(2). Pub. L. 94-582, § 15(b), substituted "inspection or weighing function" for "inspection function".

EFFECTIVE DATE OF 1976 AMENDMENT

For effective date of amendment by Pub. L. 94-582, see Effective Date of 1976 Amendment note under section 74 of this title.

EFFECTIVE DATE

For effective date of section, see section 2 of Pub. L. 90-487, set out as a note under section 78 of this title.

CROSS REFERENCES

Punishment for violating the provisions of this section, see section 87c of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 85, 86, 87c of this title.

§ 87c. Criminal penalties

(a) Any person who commits any offense prohibited by section 87b of this title (except an offense prohibited by paragraphs (a)(7), (a)(8), and (b)(4) in which case he shall be subject to the general penal statutes in title 18 relating to crimes and offenses against the United States)

shall be guilty of a misdemeanor and shall, on conviction thereof, be subject to imprisonment for not more than twelve months, or a fine of not more than $10,000, or both such imprisonment and fine; but, for each subsequent offense subject to this subsection, such person shall be guilty of a felony and shall, on conviction thereof, be subject to imprisonment for not more than five years, or a fine of not more than $20,000, or both such imprisonment and fine.

(b) Nothing in this chapter shall be construed as requiring the Administrator to report minor violations of this chapter for criminal prosecution whenever he believes that the public interest will be adequately served by a suitable written notice or warning, or to report any violation of this chapter for prosecution when he believes that institution of a proceeding under section 86 of this title will obtain compliance with this chapter and he institutes such a proceeding.

(c) Any officer or employee of the Department of Agriculture assigned to perform weighing functions under this chapter shall be considered as an employee of the Department of Agriculture assigned to perform inspection functions for the purposes of sections 1114 and 111 of Title 18.

(Aug. 11, 1916, ch. 313, part B, § 14, as added Aug. 15, 1968, Pub. L. 90-487, § 1, 82 Stat. 767, and amended Oct. 21, 1976, Pub. L. 94-582, § 17, 90 Stat. 2884.)

AMENDMENTS

1976—Subsec. (a). Pub. L. 94-582 inserted parenthetical text reading "(except an offense prohibited by paragraphs (a)(7), (a)(8), and (b)(4) in which case he shall be subject to the general penal statutes in Title 18 relating to crimes and offenses against the United States)", increased the punishment for misdemeanors from six months to twelve months and the fine from $3,000 to $10,000, and denominated subsequent offenses as felonies, substituting "but, for each subsequent offense subject to this subsection, such person shall be guilty of a felony and shall, on conviction thereof, be subject to imprisonment for not more than five years, or a fine of not more than $20,000, or both such imprisonment and fine" for "but if such offense is committed after one conviction of such person under this section has become final, such person shall be subject to imprisonment for not more than one year, or a fine of not more than $5,000, or both such imprisonment and fine".

Subsec. (b). Pub. L. 94-582 substituted "Administrator" for "Secretary" and inserted provision that nothing in this chapter shall be construed as requiring the Administrator to report any violation of this chapter for prosecution when he believes that institution of a proceeding under section 86 of this title will obtain compliance with this chapter and he institutes such a proceeding.

Subsec. (c). Pub. L. 94-582 added subsec. (c).

EFFECTIVE DATE OF 1976 AMENDMENT

For effective date of amendment by Pub. L. 94-582, see Effective Date of 1976 Amendment note under section 74 of this title.

EFFECTIVE DATE

For effective date of section, see section 2 of Pub. L. 90-487, set out as a note under section 78 of this title.

CROSS REFERENCES

Misdemeanor defined, see section 1 of Title 18, Crimes and Criminal Procedure.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 79, 79a, 86, 87f of this title.

§ 87d. Responsibility for acts of others

When construing and enforcing the provisions of this chapter, the act, omission, or failure of any official, agent, or other person acting for or employed by any association, partnership, or corporation within the scope of his employment or office shall, in every case, also be deemed the act, omission, or failure of such association, partnership, or corporation as well as that of the person.

(Aug. 11, 1916, ch. 313, part B, § 15, as added Aug. 15, 1968, Pub. L. 90-487, § 1, 82 Stat. 768.)

EFFECTIVE DATE

For effective date of section, see section 2 of Pub. L. 90-487, set out as a note under section 78 of this title.

§ 87e. General authorities

(a) Authority of Administrator

The Administrator is authorized to conduct such investigations; hold such hearings; require such reports from any official agency, any State agency delegated authority under this chapter, licensee, or other person; require by regulation as a condition for official inspection, among other things (1) that there be installed specified sampling and monitoring equipment in grain elevators, (2) that approval of the Administrator be obtained as to the condition of vessels and other carriers or receptacles for transporting or storing of grain, and (3) that persons having a financial interest in the grain which is to be inspected (or their agents) shall be afforded an opportunity to observe the weighing, loading, and official inspection thereof, under conditions prescribed by the Administrator. The Administrator is further authorized to prescribe such other rules, regulations, and instructions as he deems necessary to effectuate the purposes or provisions of this chapter. Whether any certificate, other form, representation, designation, or other description is false, incorrect, or misleading within the meaning of this chapter shall be determined by tests made in accordance with such procedures as the Administrator may adopt to effectuate the objectives of this chapter, if the relevant facts are determinable by such tests. Proceedings under section 85 of this title for refusal to renew, or for suspension or revocation of, a license shall not, unless requested by the respondent, be subject to the administrative procedure provisions in sections 554, 556, and 557 of title 5.

(b) Investigation of reports or complaints of discrepancies and abuses in official inspection or weighing of grain

The Administrator is authorized to investigate reports or complaints of discrepancies and abuses in the official inspection and weighing of grain under this chapter. The Administrator shall prescribe by regulation procedures for (1) promptly investigating (A) complaints of foreign grain purchasers regarding the official inspection or official weighing of grain shipped from the United States, (B) the cancellation of contracts for the export sale of grain required to be inspected or weighed under this chapter,

and (C) any complaint regarding the operation or administration of this chapter or any official transaction with which this chapter is concerned; and (2) taking appropriate action on the basis of the findings of any investigation of such complaints. The Administrator shall report to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate at the end of every three-month period with respect to investigative action taken on complaints, during the immediately preceding three-month period.

(c) Monitoring of United States grain upon its entry into foreign nations

The Administrator is authorized to cause official inspection personnel to monitor in foreign nations which are substantial importers of grain from the United States, grain imported from the United States upon its entry into the foreign nation, to determine whether such grain is of a comparable kind, class, quality, and condition after considering the handling methods and conveyance utilized at the time of loading, and the same quantity that it was certified to be upon official inspection and official weighing in the United States.

(d) Authority of Office of Investigation of Department of Agriculture

The Office of Investigation of the Department of Agriculture (or such other organization or agency within the Department of Agriculture which may be delegated the authority, in lieu thereof, to conduct investigations on behalf of the Department of Agriculture) shall conduct such investigations regarding the operation or administration of this chapter or any official transaction with which this chapter is concerned, as the Director thereof deems necessary to assure the integrity of official inspection and weighing under this chapter.

(e) Research program to develop methods of improving accuracy and uniformity in grading grain

The Administrator is authorized to conduct, in cooperation with other agencies within the Department of Agriculture, a continuing research program for the purpose of developing methods to improve accuracy and uniformity in grading grain.

(f) Adequate personnel to meet additional inspection and weighing requirements

To assure the normal movement of grain at all inspection points in a timely manner consistent with the policy expressed in section 74 of this title, the Administrator shall, notwithstanding any other provision of law, provide adequate personnel to meet the additional inspection and weighing requirements of this chapter.

(Aug. 11, 1916, ch. 313, part B, § 16, as added Aug. 15, 1968, Pub. L. 90-487, § 1, 82 Stat. 768, and amended Oct. 21, 1976, Pub. L. 94-582, § 18, 90 Stat. 2884; S. Res. 4, Feb. 4, 1977.)

AMENDMENTS

1976—Subsec. (a). Pub. L. 94-582 substituted authorizations of "Administrator" for authorizations of "Secretary", "official agency" for "official inspection agency", and "other person" for "any person" respecting reporting requirement, required reports from State agencies delegated authority under this chapter and from licensees, inserted items (1) to (3) relating to conditions for official inspection, authorized issuance of instructions, and deleted reference to section 86 of this title, including proceedings for refusal of official inspection service not required by section 77 of this title, as not being subject to administrative procedure provisions.

Subsecs. (b) to (f). Pub. L. 94-582 added subsecs. (b) to (f).

CHANGE OF NAME

The Committee on Agriculture and Forestry of the Senate was abolished and replaced by the Committee on Agriculture, Nutrition, and Forestry of the Senate, effective Feb. 11, 1977. See Rule XXV of the Standing Rules of the Senate, as amended by Senate Resolution 4 (popularly cited as the "Committee System Reorganization Amendments of 1977"), approved Feb. 4, 1977.

EFFECTIVE DATE OF 1976 AMENDMENT

For effective date of amendment by Pub. L. 94-582, see Effective Date of 1976 Amendment note under section 74 of this title.

EFFECTIVE DATE

For effective date of section, see section 2 of Pub. L. 90-487, set out as a note under section 78 of this title.

TEMPORARY EXERCISE BY SECRETARY OF AGRICULTURE OF POWERS, DUTIES, AND AUTHORIZATIONS OF ADMINISTRATOR PENDING APPOINTMENT OF ADMINISTRATOR

Powers, duties, and authorizations of the Administrator of the Federal Grain Inspection Service to be exercised by the Secretary of Agriculture pending the appointment of the Administrator, see section 25 of Pub. L. 94-582, set out as a note under section 75a of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 87h of this title.

§ 87e-1. Purchase or lease of inspection equipment

Notwithstanding the provisions of section 5 of title 41 and section 490 of title 40, the Administrator of the Federal Grain Inspection Service is authorized to negotiate for and purchase or lease, from any person licensed or designated (on October 21, 1976) to perform official inspection functions under this chapter, at fair market value, any facilities or equipment which the Administrator determines to be necessary for the conduct of official inspection.

(Pub. L. 94-582, § 23, Oct. 21, 1976, 90 Stat. 2888.)

CODIFICATION

Section was not enacted as part of the United States Grain Standards Act which comprises this chapter.

EFFECTIVE DATE

For effective date of section, see Effective Date of 1976 Amendment note under section 74 of this title.

§ 87f. Enforcement of provisions

(a) Subpena power

For the purposes of this chapter, the Administrator shall at all reasonable times have access to, for the purpose of examination, and the right to copy any documentary evidence of any person with respect to whom such authority is exercised; and the Administrator shall have power to require by subpena the attendance and testimony of witnesses and the production of all such documentary evidence relating to any matter under investigation by the

Administrator, and may administer oaths and affirmations, examine witnesses, and receive evidence.

(b) Disobedience of subpena

Such attendance of witnesses, and the production of such documentary evidence, may be required from any place in the United States, at any designated place of hearing. In case of disobedience to a subpena the Administrator may invoke the aid of any court designated in subsection (h) of this section in requiring the attendance and testimony of witnesses and the production of documentary evidence.

(c) Court order requiring attendance and testimony of witnesses

Any such court within the jurisdiction of which such inquiry is carried on may, in case of contumacy or refusal to obey a subpena issued to any person, issue an order requiring such person to appear before the Administrator or to produce documentary evidence if so ordered, or to give evidence touching the matter in question; and any failure to obey such order of the court may be punished by such court as a contempt thereof.

(d) Fees and mileage costs of witnesses

Witnesses summoned before the Administrator shall be paid the same fees and mileage that are paid witnesses in the courts of the United States, and witnesses from whom depositions are taken and the persons taking the same shall severally be entitled to the same fees as are paid for like services in the courts of the United States.

(e) Violation of subpena as misdemeanor

Any person who shall neglect or refuse to attend and testify, or to answer any lawful inquiry, or to produce documentary evidence, if in his power to do so, in obedience to the subpena or lawful requirement of the Administrator, shall be guilty of a misdemeanor, and upon conviction thereof be subject to the penalties set forth in subsection (a) section 87c of this title.

(f) Repealed. Pub. L. 91-452, title II, § 203, Oct. 15, 1970, 84 Stat. 928

(g) Repealed. Pub. L. 94-582, § 19(d), Oct. 21, 1976, 90 Stat. 2886

(h) District Court jurisdiction

The United States district courts, the District Court of Guam, the District Court of the Virgin Islands, the highest court of American Samoa, and the United States courts of the other territories and possessions of the United States shall have jurisdiction in cases arising under this chapter.

(Aug. 11, 1916, ch. 313, part B, § 17, as added Aug. 15, 1968, Pub. L. 90-487, § 1, 82 Stat. 768, and amended Oct. 15, 1970, Pub. L. 91-452, title II, § 203, 84 Stat. 928; Oct. 21, 1976, Pub. L. 94-582, § 19, 90 Stat. 2885.)

AMENDMENTS

1976—Subsec. (a). Pub. L. 94-582, § 19(a), (b), substituted "Administrator" for "Secretary" in two instances and inserted "by the Administrator" following "under investigation", respectively.

Subsecs. (b) to (d). Pub. L. 94-582, § 19(a), substituted "Administrator" for "Secretary" in subsecs. (b) to (d).

Subsec. (e). Pub. L. 94-582, § 19(a), (c), substituted "Administrator" for "Secretary" and inserted "subsection (a) of" preceding "section 87c of this title".

Subsec. (g). Pub. L. 94-582, § 19(d), struck out subsec. (g) which made unlawful disclosure of information by an officer or employee of the Department of Agriculture a misdemeanor, subject to the penalties set forth in section 87c of this title.

1970—Subsec. (f). Pub. L. 91-452 struck out subsec. (f) which related to the immunity from prosecution of any individual compelled to testify or produce evidence, documentary or otherwise, after having claimed his privilege against self-incrimination.

EFFECTIVE DATE OF 1976 AMENDMENT

For effective date of amendment by Pub. L. 94-582, see Effective Date of 1976 Amendment note under section 74 of this title.

EFFECTIVE DATE OF 1970 AMENDMENT

For effective date of amendment by Pub. L. 91-452, see section 260 of Pub. L. 91-452, set out as a note under section 6001 of Title 18, Crimes and Criminal Procedure.

EFFECTIVE DATE

For effective date of section, see section 2 of Pub. L. 90-487, set out as a note under section 78 of this title.

SAVINGS PROVISION

Amendment by Pub. L. 91-452 not to affect any immunity to which any individual is entitled under this section by reason of any testimony given before the sixtieth day following Oct. 15, 1970, see section 260 of Pub. L. 91-452, set out as a note under section 6001 of Title 18, Crimes and Criminal Procedure.

CROSS REFERENCES

Immunity of witnesses, see section 6001 et seq. of Title 18, Crimes and Criminal Procedure.

Misdemeanor defined, see section 1 of Title 18, Crimes and Criminal Procedure.

§ 87f-1. Registration requirements

(a) General requirement

The Administrator shall provide, by regulation, for the registration of all persons engaged in the business of buying grain for sale in foreign commerce, and in the business of handling, weighing, or transporting of grain for sale in foreign commerce. This section shall not apply to—

(1) any person who only incidentally or occasionally buys for sale, or handles, weighs, or transports grain for sale and is not engaged in the regular business of buying grain for sale, or handling, weighing, or transporting grain for sale;

(2) any producer of grain who only incidentally or occasionally sells or transports grain which he has purchased;

(3) any person who transports grain for hire and does not own a financial interest in such grain; or

(4) any person who buys grain for feeding or processing and not for the purpose of reselling and only incidentally or occasionally sells such grain as grain.

(b) Required information

(1) All persons registered under this chapter shall submit the following information to the Administrator:

(A) the name and principal address of the business,

(B) the names of all directors of such business,

(C) the names of the principal officers of such business,

(D) the names of all persons in a control relationship with respect to such business,

(E) a list of locations where the business conducts substantial operations, and

(F) such other information as the Administrator deems necessary to carry out the purposes of this chapter.

Persons required to register under this section shall also submit to the Administrator the information specified in clauses (A) through (F) of this paragraph with respect to any business engaged in the business of buying grain for sale in interstate commerce, and in the business of handling, weighing, or transporting of grain for sale in interstate commerce, if, with respect to such business, the person otherwise required to register under this section is in a control relationship.

(2) For the purposes of this section, a person shall be deemed to be in a "control relationship" with respect to a business required to register under subsection (a) of this section and with respect to applicable interstate businesses if—

(A) such person has an ownership interest of 10 per centum or more in such business, or

(B) a business or group of business entities, with respect to which such person is in a control relationship, has an ownership interest of 10 per centum or more in such business.

(3) For purposes of clauses (A) and (B) of paragraph (2) of this subsection, a person shall be considered to own the ownership interest which is owned by his or her spouse, minor children, and relatives living in the same household.

(c) Certificate of registration

The Administrator shall issue a certificate of registration to persons who comply with the provisions of this section. The certificate of registration issued in accordance with this section shall be renewed annually. If there has been any change in the information required under subsection (b) of this section, the person holding such certificate shall, within thirty days of the discovery of such change, notify the Administrator of such change. No person shall engage in the business of buying grain for sale in foreign commerce, and in the business of handling, weighing, or transporting of grain in foreign commerce unless he has registered with the Administrator as required by this chapter and has an unsuspended and unrevoked certificate of registration.

(d) Suspension or registration of certificate of registration

The Administrator may suspend or revoke any certificate of registration issued under this section whenever, after the person holding such certificate has been afforded an opportunity for a hearing in accordance with sections 554, 556, and 557 of title 5, the Administrator shall determine that such person has violated any provision of this chapter or of the regulations promulgated thereunder, or has been convicted of any violation involving the handling, weighing, or inspection of grain under title 18.

(e) Fees

The Administrator shall charge and collect fees from any person registered under this section. The amount of such fees shall be determined on the basis of the costs of the Administrator in administering the registration required by this section. Such fees shall be deposited in, and used as part of, the fund described in section 79(j) of this title.

(Aug. 11, 1916, ch. 313, part B, § 17A, as added Oct. 21, 1976, Pub. L. 94-582, § 22, 90 Stat. 2886.)

EFFECTIVE DATE

For effective date of section, see Effective Date of 1976 Amendment note under section 74 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 87h of this title.

§ 87f-2. Reporting requirements

(a) General requirements; annual report to Congressional Committees

The Administrator shall submit a report to the committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate one year after the effective date of the United States Grain Standards Act of 1976 setting forth the actions taken by him in implementing the provisions of that Act; and, on December 1 of each year thereafter, the Administrator shall report to such committees regarding the effectiveness of the official inspection system under this chapter for the prior fiscal year, with recommendations for any legislative changes necessary to accomplish the objectives stated in section 74 of this title.

(b) Notification of Congressional Committees of complaints regarding faulty grain deliveries and cancellation of export contracts

The Administrator shall notify the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate (1) of any complaint regarding faulty grain delivery made to the Department of Agriculture by a foreign purchaser of United States grain, within thirty days after a determination by the Administrator that there is reasonable cause to believe that the grain delivery was in fact faulty, and (2) within thirty days after receipt by the Administrator or the Secretary of the cancellation of any contract for the export of more than one hundred thousand metric tons of grain.

(c) Submission to Congressional Committees of annual summary of complaints from foreign purchasers and prospective purchasers of grain

On December 1 of each year, the Administrator shall submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a summary of all other complaints received by the Department of Agriculture during the prior fiscal year from foreign purchasers and prospective purchasers of United States grain and other foreign purchasers interested in the trade of grain, and the res-

olution thereof: *Provided*, That the summary shall not include a complaint unless reasonable cause exists to believe that the complaint is valid, as determined by the Administrator.

(Aug. 11, 1916, ch. 313, part B, § 17B, as added Oct. 21, 1976, Pub. L. 94-582, § 22, 90 Stat. 2888, and amended S. Res. 4, Feb. 4, 1977.)

REFERENCES IN TEXT

The United States Grain Standards Act of 1976, referred to in subsec. (a), is Pub. L. 94-582, Oct. 21, 1976, 90 Stat. 2867. For complete classification of this Act to the Code, see Short Title note set out under section 71 of this title and Tables volume. For effective date of this Act, see Effective Date of 1976 Amendment note set out under section 74 of this title.

CHANGE OF NAME

The Committee on Agriculture and Forestry of the Senate was abolished and replaced by the Committee on Agriculture, Nutrition, and Forestry of the Senate, effective Feb. 11, 1977. See Rule XXV of the Standing Rules of the Senate, as amended by Senate Resolution 4 (popularly cited as the "Committee System Reorganization Amendments of 1977"), approved Feb. 4, 1977.

EFFECTIVE DATE

For effective date of section, see Effective Date of 1976 Amendment note under section 74 of this title.

§ 87g. Relation to State and local laws; separability of provisions

(a) No State or subdivision thereof may require the inspection or description in accordance with any standards of kind, class, quality, condition, or other characteristics of grain as a condition of shipment, or sale, of such grain in interstate or foreign commerce, or require any license for, or impose any other restrictions upon the performance of any official inspection or weighing function under this chapter by official inspection personnel. Otherwise nothing in this chapter shall invalidate any law or other provision of any State or subdivision thereof in the absence of a conflict with this chapter.

(b) If any provision of this chapter or the application thereof to any person or circumstances is held invalid, the validity of the remainder of the chapter and of the application of such provision to other persons and circumstances shall not be affected thereby.

(Aug. 11, 1916, ch. 313, part B, § 18, as added Aug. 15, 1968, Pub. L. 90-487, § 1, 82 Stat. 769, and amended Oct. 21, 1976, Pub. L. 94-582, § 20, 90 Stat. 2886.)

AMENDMENTS

1976—Subsec. (a). Pub. L. 94-582 substituted in first sentence "official inspection or weighing function" for "official inspection function".

EFFECTIVE DATE OF 1976 AMENDMENT

For effective date of amendment by Pub. L. 94-582, see Effective Date of 1976 Amendment note under section 74 of this title.

EFFECTIVE DATE

For effective date of section, see section 2 of Pub. L. 90-487, set out as a note under section 78 of this title.

§ 87h. Authorization of appropriations

There are hereby authorized to be appropriated such sums as are necessary for research and development as provided in section 87e of this title; monitoring in foreign ports grain officially inspected and officially weighed under this chapter; development and issuance of rules, regulations, and instructions; improvement of official standards for grain, improvement of inspection and weighing procedures and equipment, and other activities authorized by section 76 of this title; those Federal administrative and supervisory costs incurred within the Service's Washington office or not directly related to the official inspection or the provision of weighing services for grain; the purchase or lease of any buildings, other facilities, or equipment necessary to carry out the provisions of this chapter; and any other expenses necessary to carry out the provisions of this chapter to the extent that financing is not obtained from the fees and sales of samples as provided for in sections 79, 79a, and 87f-1 of this title.

(Aug. 11, 1916, ch. 313, part B, § 19, as added Aug. 15, 1968, Pub. L. 90-487, § 1, 82 Stat. 769, and amended Oct. 21, 1976, Pub. L. 94-582, § 21, 90 Stat. 2886.)

AMENDMENTS

1976—Pub. L. 94-582 enumerated specific items for which appropriations are authorized and provided for financing obtained from fees and sales of samples as provided in sections 79a and 87f-1 of this title.

EFFECTIVE DATE OF 1976 AMENDMENT

For effective date of amendment by Pub. L. 94-582, see Effective Date of 1976 Amendment note under section 74 of this title.

EFFECTIVE DATE

For effective date of section, see section 2 of Pub. L. 90-487, set out as a note under section 78 of this title.

CHAPTER 4—NAVAL STORES

Sec.
91. Short title.
92. Definitions.
93. Establishment of official naval stores standards.
94. Supplying duplicates of standards; examination, etc., of naval stores and certification thereof.
95. Prohibition of acts deemed injurious to commerce in naval stores.
96. Punishment for violation of prohibition.
97. Purchase and analysis by Secretary of samples of spirits of turpentine to detect violations; reports to Department of Justice; publication of results of analysis, etc.
98. Authorization of appropriations; administrative expenses.
99. Separability of provisions.

TRANSFER OF FUNCTIONS

All functions of the Federal Security Administrator were transferred to the Secretary of Health, Education, and Welfare and all agencies of the Federal Security Agency were transferred to the Department of Health, Education, and Welfare by section 5, 1953 Reorg. Plan No. 1, eff. Mar. 12, 1953, 18 F.R. 2053, 67 Stat. 631, set out in the Appendix to Title 5, Government Organization and Employees. The Federal Security Agency and the office of Administrator were abolished by section 8 of 1953 Reorg. Plan No. 1.

The Food and Drug Administration in the Department of Agriculture and its functions, except those functions relating to the administration of the Naval Stores Act, this chapter, were transferred to the Federal Security Agency by 1940 Reorg. Plan No. IV, § 12, set out in the Appendix to Title 5, Government Organization and Employees.

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in section 608c of this title.

§ 91. Short title

For convenience of reference, this chapter may be designated and cited as "The Naval Stores Act."

(Mar. 3, 1923, ch. 217, § 1, 42 Stat. 1435.)

EFFECTIVE DATE

Section 10 of act Mar. 3, 1923, provided that this chapter shall become effective 90 days next after Mar. 3, 1923.

CROSS REFERENCES

Orders regulating handling of naval stores, see section 608c of this title.

§ 92. Definitions

When used in this chapter—

(a) "Naval stores" means spirits of turpentine and rosin.

(b) "Spirits of turpentine" includes gum spirits of turpentine and wood turpentine.

(c) "Gum spirits of turpentine" means spirits of turpentine made from gum (oleoresin) from a living tree.

(d) "Wood turpentine" includes steam distilled wood turpentine and destructively distilled wood turpentine.

(e) "Steam distilled wood turpentine" means wood turpentine distilled with steam from the oleoresin within or extracted from the wood.

(f) "Destructively distilled wood turpentine" means wood turpentine obtained in the destructive distillation of the wood.

(g) "Rosin" includes gum rosin and wood rosin.

(h) "Gum rosin" means rosin remaining after the distillation of gum spirits of turpentine.

(i) "Wood rosin" means rosin remaining after the distillation of steam distilled wood turpentine.

(j) "Package" means any container of naval stores, and includes barrel, tank, tank car, or other receptacle.

(k) "Person" includes partnerships, associations, and corporations, as well as individuals.

(*l*) The term "commerce" means commerce between any State, Territory, or possession, or the District of Columbia, and any place outside thereof; or between points within the same State, Territory, or possession, or the District of Columbia, but through any place outside thereof; or within any Territory or possession or the District of Columbia.

(Mar. 3, 1923, ch. 217, § 2, 42 Stat. 1435.)

CROSS REFERENCES

Standards for naval stores until otherwise prescribed as provided in this chapter, kinds of spirits of turpentine defined in subdivisions (c), (e) and (f) of this section as, see section 93 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 93 of this title; title 12 section 1141j.

§ 93. Establishment of official naval stores standards

For the purposes of this chapter the kinds of spirits of turpentine defined in subdivisions (c), (e), and (f) of section 92 of this title and the rosin types heretofore prepared and recommended under existing laws, by or under authority of the Secretary of Agriculture, are made the standards for naval stores until otherwise prescribed as hereinafter provided. The Secretary of Agriculture is authorized to establish and promulgate standards for naval stores for which no standards are herein provided, after at least three months' notice of the proposed standard shall have been given to the trade, so far as practicable, and due hearings or reasonable opportunities to be heard shall have been afforded those favoring or opposing the same. No such standard shall become effective until after three months from the date of the promulgation thereof. Any standard made by this chapter or established and promulgated by the Secretary of Agriculture in accordance therewith may be modified by said Secretary whenever, for reasons and causes deemed by him sufficient, the interests of the trade shall so require, after at least six months' notice of the proposed modifications shall have been given to the trade, so far as practicable, and due hearings or reasonable opportunities to be heard shall have been afforded those favoring or opposing the same; and no such modification so made shall become effective until after six months from the date when made.

The various grades of rosin, from highest to lowest, shall be designated, unless and until changed, as hereinbefore provided, by the following letters, respectively: X, WW, WG, N, M, K, I, H, G, F, E, D, and B, together with the designation "gum rosin" or "wood rosin", as the case may be.

The standards herein made and authorized to be made shall be known as the "Official Naval Stores Standards of the United States," and may be referred to by the abbreviated expression "United States Standards", and shall be the standards by which all naval stores in commerce shall be graded and described.

(Mar. 3, 1923, ch. 217, § 3, 42 Stat. 1435.)

§ 94. Supplying duplicates of standards; examination, etc., of naval stores and certification thereof

The Secretary of Agriculture shall provide, if practicable, any interested persons with duplicates of the official naval stores standards of the United States upon request accompanied by tender of satisfactory security for the return thereof, under such regulations as he may prescribe. The Secretary of Agriculture shall examine, if practicable, upon request of any interested person, any naval stores and shall analyze, classify, or grade the same on tender of the cost thereof as required by him, under such regulations as he may prescribe. He shall furnish a certificate showing the analysis, classification, or grade of such naval stores, which certificate shall be prima facie evidence of the analysis, classification, or grade of such naval stores and of the contents of any package from which the same may have been taken, as well as of the correctness of such analysis, classification, or grade and shall be admissible as such in any court.

(Mar. 3, 1923, ch. 217, § 4, 42 Stat. 1436.)

§ 95. Prohibition of acts deemed injurious to commerce in naval stores

The following acts are hereby declared injurious to commerce in naval stores and are hereby prohibited and made unlawful:

(a) The sale in commerce of any naval stores, or of anything offered as such, except under or by reference to United States standards.

(b) The sale of any naval stores under or by reference to United States standards which is other than what it is represented to be.

(c) The use in commerce of the word "turpentine" or the word "rosin," singly or with any other word or words, or of any compound, derivative, or imitation of either such word, or of any misleading word, or of any word, combination of words, letter, or combination of letters, provided herein or by the Secretary of Agriculture to be used to designate naval stores of any kind or grade, in selling, offering for sale, advertising, or shipping anything other than naval stores of the United States standards.

(d) The use in commerce of any false, misleading, or deceitful means or practice in the sale of naval stores or of anything offered as such.

(Mar. 3, 1923, ch. 217, § 5, 42 Stat. 1436.)

CROSS REFERENCES

Punishment for violating the provisions of this section, see section 96 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 96 of this title.

§ 96. Punishment for violation of prohibition

Any person willfully violating any provision of section 95 of this title shall, on conviction, be punished for each offense by a fine not exceeding $5,000 or by imprisonment for not exceeding one year, or both.

(Mar. 3, 1923, ch. 217, § 6, 42 Stat. 1436.)

CROSS REFERENCES

Misdemeanor defined, see section 1 of Title 18, Crimes and Criminal Procedure.

§ 97. Purchase and analysis by Secretary of samples of spirits of turpentine to detect violations; reports to Department of Justice; publication of results of analysis, etc.

The Secretary of Agriculture is hereby authorized to purchase from time to time in open market samples of spirits of turpentine and of anything offered for sale as such for the purpose of analysis, classification, or grading and of detecting any violation of this chapter. He shall report to the Department of Justice for appropriate action any violation of this chapter coming to his knowledge. He is also authorized to publish from time to time results of any analysis, classification, or grading of spirits of turpentine and of anything offered for sale as such made by him under any provision of this chapter.

(Mar. 3, 1923, ch. 217, § 7, 42 Stat. 1436.)

§ 98. Authorization of appropriations; administrative expenses

There are hereby authorized to be appropriated, out of any moneys in the Treasury not otherwise appropriated, such sums as may be necessary for the administration and enforcement of this chapter, and within the limits of such sums the Secretary of Agriculture is authorized to employ such persons and means and make such expenditures for printing, telegrams, telephones, books of reference, periodicals, furniture, stationery, office equipment, travel and supplies, and all other expenses as shall be necessary in the District of Columbia and elsewhere.

(Mar. 3, 1923, ch. 217, § 8, 42 Stat. 1436.)

§ 99. Separability of provisions

If any provision of this chapter or the application thereof to any person or circumstances is held invalid, the validity of the remainder of the chapter and of the application of such provisions to other persons and circumstances shall not be affected thereby.

(Mar. 3, 1923, ch. 217, § 9, 42 Stat. 1437.)

CHAPTER 5—IMPORTATION OF ADULTERATED SEEDS

§§ 111 to 116. Repealed. Aug. 9, 1939, ch. 615, § 419, 53 Stat. 1290

Sections, act Aug. 24, 1912, ch. 382, §§ 1 to 6, 37 Stat. 506, relating to the regulation of foreign commerce by prohibiting the admission into the United States of adulterated grain and seeds, are now covered by section 1551 et seq. of this title.

Section 111 amended by acts Aug. 11, 1916, ch. 313, 39 Stat. 453; Apr. 26, 1926, ch. 186, § 1, 44 Stat. 325.

Section 113 amended by act Aug. 11, 1916, ch. 313, 39 Stat. 453.

Sections 115 and 116 amended by act Apr. 26, 1926, ch. 186, § 2, 44 Stat. 325.

EFFECTIVE DATE OF REPEAL; EXCEPTIONS

Repeal effective on the one hundred and eightieth day after Aug. 9, 1939, except that notices with respect to imported alfalfa and red clover seed promulgated by the Secretary of Agriculture under authority of former sections 111 to 116 of this title, which were in effect Aug. 9, 1939, remained in full force and effect as if promulgated under sections 1551 to 1610 of this title.

CHAPTER 6—INSECTICIDES AND ENVIRONMENTAL PESTICIDE CONTROL

SUBCHAPTER I—INSECTICIDES

Sec.

121 to 134. Repealed.

SUBCHAPTER II—ENVIRONMENTAL PESTICIDE CONTROL

135 to 135k. Omitted.

Sec.
136. Definitions.
(a) Active ingredient.
(b) Administrator.
(c) Adulterated.
(d) Animal.
(e) Certified applicator, etc.
(f) Defoliant.
(g) Desiccant.
(h) Device.
(i) District court.
(j) Environment.
(k) Fungus.
(l) Imminent hazard.
(m) Inert ingredient.
(n) Ingredient statement.
(o) Insect.
(p) Label and labeling.
(q) Misbranded.
(r) Nematode.
(s) Person.
(t) Pest.
(u) Pesticide.
(v) Plant regulator.
(w) Producer and produce.
(x) Protect health and the environment.
(y) Registrant.
(z) Registration.
(aa) State.
(bb) Unreasonable adverse effects on the environment.
(cc) Weed.
(dd) Establishment.
136a. Registration of pesticides.
(a) Requirement.
(b) Exemptions.
(c) Procedure for registration.
(d) Classification of pesticides.
(e) Products with same formulation and claims.
(f) Miscellaneous.
136b. Use of restricted use pesticides; certified applicators.
(a) Certification procedure.
(b) State plans.
(c) Instruction in integrated pest management techniques.
136c. Experimental use permits.
(a) Issuance.
(b) Temporary tolerance level.
(c) Use under permit.
(d) Studies.
(e) Revocation.
(f) State issuance of permits.
(g) Exemption for agricultural research agencies.
136d. Administrative review; suspension.
(a) Cancellation after five years.
(b) Cancellation and change in classification.
(c) Suspension.
(d) Public hearings and scientific review.
(e) Judicial review.
136e. Registration of establishments.
(a) Requirement.
(b) Registration.
(c) Information required.
(d) Confidential records and information.
136f. Books and records.
(a) Requirements.
(b) Inspection.
Sec.
136g. Inspection of establishments, etc.
(a) In general.
(b) Warrants.
(c) Enforcement.
136h. Protection of trade secrets and other information.
(a) In general.
(b) Disclosure.
(c) Disputes.
136i. Standards applicable to pesticide applicators.
(a) In general.
(b) Separate standards.
136j. Unlawful acts.
(a) In general.
(b) Exemptions.
136k. Stop sale, use, removal, and seizure.
(a) Stop sale, etc., orders.
(b) Seizure.
(c) Disposition after condemnation.
(d) Court costs, etc.
136l. Penalties.
(a) Civil penalties.
(b) Criminal penalties.
136m. Indemnities.
(a) Requirements.
(b) Amount of payment.
136n. Administrative procedure; judicial review.
(a) District court review.
(b) Review by court of appeals.
(c) Jurisdiction of district courts.
(d) Notice of judgments.
136o. Imports and exports.
(a) Pesticides and devices intended for export.
(b) Cancellation notices furnished to foreign governments.
(c) Importation of pesticides and devices.
(d) Cooperation in international efforts.
(e) Regulations.
136p. Exemption of Federal agencies.
136q. Disposal and transportation.
(a) Procedures.
(b) Advice to Secretary of Transportation.
136r. Research and monitoring.
(a) Research.
(b) National monitoring plan.
(c) Monitoring.
136s. Solicitation of comments; notice of public hearings.
136t. Delegation and cooperation.
(a) Delegation.
(b) Cooperation.
136u. State cooperation, aid, and training.
(a) Cooperative agreements.
(b) Contracts for training.
(c) Cooperative State extension Services.
136v. Authority of States.
136w. Authority of Administrator.
(a) Regulations.
(b) Exemption of pesticides.
(c) Other authority.
(d) Scientific advisory panel.
136x. Severability.
136y. Authorization of appropriations.

SUBCHAPTER I—INSECTICIDES

§§ 121 to 134. Repealed. June 25, 1947, ch. 125, § 16, 61 Stat. 172

Sections, act Apr. 26, 1910, ch. 191, 36 Stat. 335, formerly known as "The Insecticides Act", are now covered by subchapter I of this chapter.

EFFECTIVE DATE OF REPEAL; SAVINGS PROVISIONS

Section 16 of act June 25, 1947 repealed this subchapter effective one year after June 25, 1947, and fur-

ther provided that this subchapter should be deemed to remain in full force for the purpose of sustaining any proper suit, action, or other proceeding with respect to any violations, liabilities incurred, or appeals taken prior to such date of repeal or to sales, shipments, or deliveries of insecticides and fungicides exempted by the Secretary.

SUBCHAPTER II—ENVIRONMENTAL PESTICIDE CONTROL

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in title 15 sections 1261, 1459, 2052, 2062, 2602; title 21 sections 321, 346a.

§§ 135 to 135k. Omitted

CODIFICATION

Sections 135 to 135k, acts June 25, 1947, ch. 125, §§ 2 to 13, 61 Stat. 163–172; Aug. 7, 1959, Pub. L. 86–139, § 2, 73 Stat. 286; May 12, 1964, Pub. L. 88–305, §§ 1 to 6, 78 Stat. 190–193; Oct. 15, 1970, Pub. L. 91–452, title II, § 204, 84 Stat. 928; Dec. 30, 1970, Pub. L. 91–601, § 7(b), 84 Stat. 1673, which related to economic poison control, were superseded by the amendments made to act June 25, 1947, by Pub. L. 92–516, Oct. 21, 1972, 86 Stat. 975. See section 4 of Pub. L. 92–516, set out as a note under section 136 of this title. The provisions of act June 25, 1947, as amended by Pub. L. 92–516, are set out in section 136 et seq. of this title.

The provisions of sections 135 to 135k of this title prior to the amendment by Pub. L. 92–516 are set out below.

§ 135. *Definitions.* For the purposes of this subchapter—

(a) The term "economic poison" means (1) any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating any insects, rodents, nematodes, fungi, weeds, and other forms of plant or animal life or viruses, except viruses on or in living man or other animals, which the Administrator shall declare to be a pest, and (2) any substance or mixture of substances intended for use as a plant regulator, defoliant or desiccant.

(b) The term "device" means any instrument or contrivance intended for trapping, destroying, repelling, or mitigating insects or rodents or destroying, repelling, or mitigating fungi, nematodes, or such other pests as may be designated by the Administrator, but not including equipment used for the application of economic poisons when sold separately therefrom.

(c) The term "insecticide" means any substance or mixture of substances intended for preventing, destroying, repelling or mitigating any insects which may be present in any environment whatsoever.

(d) The term "fungicide" means any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating any fungi.

(e) The term "rodenticide" means any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating rodents or any other vertebrate animal which the Administrator shall declare to be a pest.

(f) The term "herbicide" means any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating any weed.

(g) The term "nematocide" means any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating nematodes.

(h) The term "plant regulator" means any substance or mixture of substances, intended through physiological action, for accelerating or retarding the rate of growth or rate of maturation, or for otherwise altering the behavior of ornamental or crop plants or the produce thereof, but shall not include substances to the extent that they are intended as plant nutrients, trace elements, nutritional chemicals, plant inoculants, and soil amendments.

(i) The term "defoliant" means any substance or mixture of substances intended for causing the leaves or foliage to drop from a plant, with or without causing abscission.

(j) The term "desiccant" means any substance or mixture of substances intended for artificially accelerating the drying of plant tissue.

(k) The term "nematode" means invertebrate animals of the phylum nemathelminthes and class nematoda, that is, unsegmented round worms with elongated, fusiform, or saclike bodies covered with cuticle, and inhabiting soil, water, plants or plant parts; may also be called nemas or eelworms.

(*l*) The term "weed" means any plant which grows where not wanted.

(m) The term "insect" means any of the numerous small invertebrate animals generally having the body more or less obviously segmented, for the most part belonging to the class insecta, comprising six-legged, usually winged forms, as, for example, beetles, bugs, bees, flies, and to other allied classes of arthropods whose members are wingless and usually have more than six legs, as, for example spiders, mites, ticks, centipedes, and wood lice.

(n) The term "fungi" means all non-chlorophyll-bearing thallophytes (that is, all non-chlorophyll-bearing plants as a lower order than mosses and liverworts), as, for example, rusts, smuts, mildews, molds, yeasts, and bacteria, except those on or in living man or other animals.

(*o*) The term "ingredient statement" means either—

(1) a statement of the name and percentage of each active ingredient, together with the total percentage of the inert ingredients, in the economic poison; or

(2) a statement of the name of each active ingredient, together with the name of each and total percentage of the inert ingredients, if any there by, in the economic poison (except option 1 shall apply if the preparation is highly toxic to man, determined as provided in section 135d of this title);

and, in addition to (1) or (2) in case the economic poison contains arsenic in any form, a statement of the percentages of total and water soluble arsenic, each calculated as elemental arsenic.

(p) The term "active ingredient" means—

(1) in the case of an economic poison other than a plant regulator, defoliant or desiccant, an ingredient which will prevent, destroy, repel, or mitigate insects, nematodes, fungi, rodents, weeds, or other pests;

(2) in the case of a plant regulator, an ingredient which, through physiological action, will accelerate or retard the rate of growth or rate of maturation or otherwise alter the behavior of ornamental or crop plants or the produce thereof;

(3) in the case of a defoliant, an ingredient which will cause the leaves or foliage to drop from a plant;

(4) in the case of a desiccant, an ingredient which will artificially accelerate the drying of plant tissue.

(q) The term "inert ingredient" means an ingredient which is not active.

(r) The term "antidote" means a practical immediate treatment in case of poisoning and includes first-aid treatment.

(s) The term "person" means any individual, partnership, association, corporation, or any organized group of persons whether incorporated or not.

(t) The term "Territory" means any Territory or possession of the United States, excluding the Canal Zone.

(u) The term "Administrator" means the Administrator of the Environmental Protection Agency.

(v) The term "registrant" means the person registering any economic poision pursuant to the provisions of this subchapter.

(w) The term "label" means the written, printed, or graphic matter on, or attached to, the economic poison or device or the immediate container thereof, and the outside container or wrapper of the retail package, if any there be, of the economic poision or device.

(x) The term "labeling" means all labels and other written, printed, or graphic matter—

(1) upon the economic poison or device or any of its containers or wrappers;

(2) accompanying the economic poison or device at any time;

(3) to which reference is made on the label or in literature accompanying the economic poison or device, except to current official publications of the Environmental Protection Agency, the United States Department of the Interior, the United States Public Health Service, State experiment stations, State agricultural colleges, and other similar Federal or State institutions or agencies authorized by law to conduct research in the field of economic poisons.

(y) The term "adulterated" shall apply to any economic poison if its strength or purity falls below the professed standard or quality as expressed on its labeling or under which it is sold, or if any substance has been substituted wholly or in part for the article, or if any valuable constituent of the article has been wholly or in part abstracted.

(z) The term "misbranded" shall apply—

(1) to any economic poison or device if its labeling bears any statement, design, or graphic representation relative thereto or to its ingredients which is false or misleading in any particular;

(2) to any economic poison—

(a) if it is an imitation of or is offered for sale under the name of another economic poison;

(b) if its labeling bears any reference to registration under this subchapter other than the registration number assigned to the economic poison;

(c) if the labeling accompanying it does not contain directions for use which are necessary and if complied with adequate for the protection of the public;

(d) if the label does not contain a warning or caution statement which may be necessary and if complied with adequate to prevent injury to living man and other vertebrate animals, vegetation, and useful invertebrate animals;

(e) if the label does not bear an ingredient statement on that part of the immediate container and on the outside container or wrapper, if there be one, through which the ingredient statement on the immediate container cannot be clearly read, of the retail package which is presented or displayed under customary conditions of purchase: *Provided,* That the Administrator may permit the ingredient statement to appear prominently on some other part of the container, if the size or form of the container makes it impracticable to place it on the part of the retail package which is presented or displayed under customary conditions of purchase;

(f) if any word, statement, or other information required by or under authority of this subchapter to appear on the label or labeling is not prominently placed thereon with such conspicuousness (as compared with other words, statements, designs, or graphic matter in the labeling) and in such terms as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use; or

(g) if in the case of an insecticide, nematocide, fungicide, or herbicide when used as directed or in accordance with commonly recognized practice it shall be injurious to living man or other vertebrate animals, or vegetation, except weeds, to which it is applied, or to the person applying such economic poison; or

(h) if in the case of a plant regulator, defoliant, or desiccant when used as directed it shall be injurious to living man or other vertebrate animals, or vegetation to which it is applied, or to the person applying such economic poison: *Provided,* That physical or physiological effects on plants or parts thereof shall not be deemed to be injury, when this is the purpose for which the plant regulator, defoliant, or desiccant was applied, in accordance with the label claims and recommendations; or

(i) if its packaging or labeling is in violation of an applicable regulation issued pursuant to section 1472 or 1473 of title 15.

§ 135a. *Prohibited acts.* (a) It shall be unalwful for any person to distribute, sell, or offer for sale in any Territory or in the District of Columbia, or to ship or deliver for shipment from any State, Territory, or the District of Columbia, to any other State, Territory, or the District of Columbia, or to any foreign country, or to receive in any State, Territory, or the District of Columbia from any other State, Territory or the District of Columbia, or foreign country, and having so received, deliver or offer to deliver in the original unbroken package to any other person, any of the following:

(1) Any economic poison which is not registered pursuant to the provisions of section 135b of this title, or any economic poison if any of the claims made for it or any of the directions for its use differ in substance from the representations made in connection with its registration, or if the composition of an economic poison differs from its composition as represented in connection with its registration: *Provided,* That in the discretion of the Administrator, a change in the labeling or formula of an economic poison may be made within a registration period without requiring reregistration of the product.

(2) Any economic poison unless it is in the registrant's or the manufacturer's unbroken immediate container, and there is affixed to such container, and to the outside container or wrapper of the retail package, if there be one through which the required information on the immediate container cannot be clearly read, a label bearing—

(a) the name and address of the manufacturer, registrant, or person for whom manufactured;

(b) the name, brand, or trade-mark under which said article is sold;

(c) the net weight or measure of the content: *Provided,* That the Administrator may permit reasonable variations; and

(d) when required by regulation of the Administrator to effectuate the purposes of this subchapter, the registration number assigned to the article under this subchapter.

(3) Any economic poison which contains any substance or substances in quantities highly toxic to man, determined as provided in section 135d of this title, unless the label shall bear, in addition to any other matter required by this subchapter—

(a) the skull and crossbones;

(b) the word "poison" prominently (IN RED) on a background of distinctly contrasting color; and

(c) a statement of an antidote for the economic poison.

(4) The economic poisons commonly known as standard lead arsenate, basic lead arsenate, calcium arsenate, magnesium arsenate, zinc arsenate, zinc arsenite, sodium fluoride, sodium fluosilicate, and barium fluosilicate unless they have been distinctly colored or discolored as provided by regulations issued in accordance with this subchapter, or any other white powder economic poison which the Administrator, after investigation of and after public hearing on the necessity for such action for the protection of the public health and the feasibility of such coloration or discoloration, shall, by regulation, require to be distinctly colored or discolored, unless it has been so colored or discolored: *Provided,* That the Administrator may exempt any economic poison to the extent that it is intended for a particular use or uses from the coloring or discoloring required or authorized by this section if he determines that such coloring or discoloring for such use or uses is not necessary for the protection of the public health.

(5) Any economic poison which is adulterated or misbranded or any device which is misbranded.

(b) Notwithstanding any other provision of this subchapter, no article shall be deemed in violation of this subchapter when intended solely for export to any foreign country and prepared or packed according to the specifications or directions of the foreign purchaser.

(c) It shall be unlawful—

(1) for any person to detach, alter, deface, or destroy, in whole or in part, any label or labeling provided for in this subchapter or the rules and regulations promulgated hereunder, or to add any substance to, or take any substance from, an economic poison in a manner that may defeat the purpose of this subchapter;

(2) for any manufacturer, distributor, dealer, carrier, or other person to refuse, upon a request in writing specifying the nature or kind of economic poison or device to which such request relates, to furnish to or permit any person designated by the Administrator to have access to and to copy such records as authorized by section 135c of this title;

(3) for any person to give a guaranty or undertaking provided for in section 135e of this title which is false in any particular, except that a person who receives and relies upon a guaranty authorized under section 135e of this title may give a guaranty to the same effect, which guaranty shall contain in addition to his own name and address the name and address of the person residing in the United States from whom he received the guaranty or undertaking; and

(4) for any person to use for his own advantage or to reveal, other than to the Administrator, or officials or employees of the Environmental Protection Agency, or other Federal agencies, or to the courts in response to a subpena, or to physicians, and in emergencies to pharmacists and other qualified persons, for use in the preparation of antidotes, in accordance with such directions as the Administrator may prescribe, any information relative to formulas of products acquired by authority of section 135b of this title.

§ 135b. *Registration of economic poisons.*—(a) *General requirement; single economic poisons; supplement statements; filing and contents of statements.* Every economic poison which is distributed, sold, or offered for sale in any Territory or the District of Columbia, or which is shipped or delivered for shipment from any State, Territory, or the District of Columbia to any other State, Territory, or the District of Columbia, or which is received from any foreign country shall be registered with the Administrator: *Provided,* That products which have the same formula, are manufactured by the same person, the labeling of which contains the same claims, and the labels of which bear a designation identifying the product as the same economic poison may be registered as a single economic poison; and additional names and labels shall be added by supplement statements; the applicant for registration shall file with the Administrator a statement including—

(1) the name and address of the applicant for registration and the name and address of the person whose name will appear on the label, if other than the applicant for registration;

(2) the name of the economic poison;

(3) a complete copy of the labeling accompanying the economic poison and a statement of all claims to be made for it, including the directions for use; and

(4) if requested by the Administrator, a full description of the tests made and the results thereof upon which the claims are based.

(b) *Submission of formula; registration by Administrator upon compliance with requirements.* The Administrator, whenever he deems it necessary for the effective administration of this subchapter, may require the submission of the complete formula of the economic poison. If it appears to the Administrator that the composition of the article is such as to warrant the proposed claims for it and if the article and its labeling and other material required to be submitted comply with the requirements of section 135a of this title, he shall register it.

(c) *Notification of noncompliance with requirements; corrections; refusal, suspension or cancellation of registration by Administrator; effective date of cancellation; advisory committees and procedures; objections; public hearings; Administrator's orders; consultation with other agencies; confidential information; public hazard suspension; orders reviewable; defense of registration.* If it does not appear to the Administrator that the article is such as to warrant the proposed claims for it or if the article and its labeling and other material required to be submitted do not comply with the provisions of this subchapter, he shall notify the applicant for registration of the manner in which the article, labeling, or other material required to be submitted fail to comply with this subchapter so as to afford the applicant for registration an opportunity to make the corrections necessary. If, upon receipt of such notice, the applicant for registration does not make the corrections, the Administrator shall refuse to register the article. The Administrator, in accordance with the procedures specified herein, may suspend or cancel the registration of an economic poison whenever it does not appear that the article or its labeling or other material required to be submitted complies with the provisions of this subchapter. Whenever the Administrator refuses registration of an economic poison or determines that registration of an economic poison should be canceled, he shall notify the applicant for registration or the registrant of his action and the reasons therefor. Whenever an application for registration is refused, the applicant, within thirty days after service of notice of such refusal, may file a petition requesting that the matter be referred to an advisory committee or file objections and request a public hearing in accordance with this section. A cancellation of registration shall be effective thirty days after service of the foregoing notice unless within such time the registrant (1) makes the necessary corrections; (2) files a petition requesting that the matter be referred to an advisory committee; or (3) files objections and requests a public hearing. Each advisory committee shall be composed of experts, qualified in the subject matter and of adequately diversified professional background selected by the National Academy of Sciences and shall include one or more representatives from land-grant colleges. The size of the committee shall be determined by the Administrator. Members of an advisory committee shall receive as compensation for their services a reasonable per diem, which the Administrator shall by rules and regulations prescribe, for time actually spent in the work of the committee, and shall in addition be reimbursed for their necessary traveling and subsistence expenses while so serving away from their places of residence, all of which costs may be assessed against the petitioner, unless the committee shall recommend in favor of the petitioner or unless the matter was referred to the advisory committee by the Administrator. The members shall not be subject to any other provisions of law regarding the appointment and compensation of employees of the United States. The Administrator shall furnish the committee with adequate clerical and other assistance, and shall by rules and regulations prescribe the procedures to be followed by the committee. The Administrator shall forthwith submit to such committee the application for registration of the article and all relevant data before him. The petitioner, as well as representatives of the Environmental Protection Agency, shall have the right to consult with the advisory committee. As soon as practicable after any such submission, but not later than sixty days thereafter, unless extended by the Administrator for an additional sixty days, the committee shall, after independent study of the data submitted by the Administrator and all other pertinent information available to it, submit a report and recommendation to the Administrator as to the registration of the article, together with all underlying data and a statement of the reasons or basis for the recommendations. After due consideration of the views of the committee and all other data before him, the Administrator shall, within ninety days after receipt of the report and recommendations of the advisory committee, make his determination and issue an order, with findings of fact, with respect to registration of the article and notify the applicant for regis-

tration, or registrant. The applicant for registration, or registrant, may, within sixty days from the date of the order of the Administrator, file objections thereto and request a public hearing thereon. In the event a hearing is requested, the Administrator shall, after due notice, hold such public hearing for the purpose of receiving evidence relevant and material to the issues raised by such objections. Any report, recommendations, underlying data, and reasons certified to the Administrator by an advisory committee shall be made a part of the record of the hearing, if relevant and material, subject to the provisions of section 556(d) of title 5. The National Academy of Sciences shall designate a member of the advisory committee to appear and testify at any such hearing with respect to the report and recommendations of such committee upon request of the Administrator, the petitioner, or the officer conducting the hearing: *Provided,* That this shall not preclude any other member of the advisory committee from appearing and testifying at such hearing. As soon as practicable after completion of the hearing, but not later than ninety days, the Administrator shall evaluate the data and reports before him, act upon such objections and issue an order granting, denying, or canceling the registration or requiring modification of the claims or the labeling. Such order shall be based only on substantial evidence of record at such hearing, including any report, recommendations, underlying data, and reason certified to the Administrator by an advisory committee, and shall set forth detailed findings of fact upon which the order is based. In connection with consideration of any registration or application for registration under this section, the Administrator may consult with any other Federal agency or with an advisory committee appointed as herein provided. Notwithstanding the provisions of section 135a(c)(4) of this title, information relative to formulas of products acquired by authority of this section may be revealed, when necessary under this section, to an advisory committee, or to any Federal agency consulted, or at a public hearing, or in findings of fact issued by the Administrator. All data submitted to an advisory committee in support of a petition under this section shall be considered confidential by such advisory committee: *Provided,* That this provision shall not be construed as prohibiting the use of such data by the committee in connection with its consultation with the petitioner or representatives of the Environmental Protection Agency, as provided for herein, and in connection with its report and recommendations to the Administrator. Notwithstanding any other provision of this section, the Administrator may, when he finds that such action is necessary to prevent an imminent hazard to the public, by order, suspend the registration of an economic poison immediately. In such case, he shall give the registrant prompt notice of such action and afford the registrant the opportunity to have the matter submitted to an advisory committee and for an expedited hearing under this section. Final orders of the Administrator under this section shall be subject to judicial review, in accordance with the provisions of subsection (d) of this section. In no event shall registration of an article be construed as a defense for the commission of any offense prohibited under section 135a of this title.

(d) *Judicial review; court of appeals; persons entitled to appeal, petition, record, jurisdiction, conclusiveness of findings, additional evidence, modification of findings and orders; Supreme Court; stay of administrative orders; calendar.* In a case of actual controversy as to the validity of any order under this section, any person who will be adversely affected by such order may obtain judicial review by filing in the United States court of appeals for the circuit wherein such person resides or has his principal place of business, or in the United States Court of Appeals for the District of Columbia Circuit, within sixty days after the entry of such order, a petition praying that the order be set aside in whole or in part. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Administrator, or any officer designated by him for that purpose, and thereupon the Administrator shall file in the court the record of the proceedings on which he based his order, as provided in section 2112 of title 28. Upon the filing of such petition the court shall have exclusive jurisdiction to affirm or set aside the order complained of in whole or in part. The findings of the Administrator with respect to questions of fact shall be sustained if supported by substantial evidence when considered on the record as a whole, including any report and recommendation of an advisory committee. If application is made to the court for leave to adduce additional evidence, the court may order such additional evidence to be taken before the Administrator, and to be adduced upon the hearing in such manner and upon such terms and conditions as to the court may seem proper, if such evidence is material and there were reasonable grounds for failure to adduce such evidence in the proceedings below. The Administrator may modify his findings as to the facts and order by reason of the additional evidence so taken, and shall file with the court such modified findings and order. The judgment of the court affirming or setting aside, in whole or in part, any order under this section shall be final, subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 18.[1] The commencement of proceedings under this section shall not, unless specifically ordered by the court to the contrary, operate as a stay of an order. The court shall advance on the docket and expedite the disposition of all causes filed therein pursuant to this section.

(e) *Shipments between single-ownership plants.* Notwithstanding any other provision of this subchapter, registration is not required in the case of an economic poison shipped from one plant to another plant operated by the same person and used solely at such plant as a constituent part to make an economic poison which is registered under this subchapter.

(f) *Time of cancellation and continuance of registration.* The Administrator is authorized to cancel the registration of any economic poison at the end of a period of five years following the registration of such economic poison or at the end of any five-year period thereafter, unless the registrant, prior to the expiration of each such five-year period, requests in accordance with regulations issued by the Administrator that such registration be continued in effect.

§ 135c. *Books and records; access and inspection; use in criminal prosecution.* For the purposes of enforcing the provisions of this subchapter, any manufacturer, distributor, carrier, dealer, or any other person who sells or offers for sale, delivers or offers for delivery, or who receives or holds any economic poison or device subject to this subchapter, shall, upon request of any employee of the Environmental Protection Agency or any employee of any State, Territory, or political subdivision, duly designated by the Administrator, furnish or permit such person at all reasonable times to have access to, and to copy all records showing the delivery, movement, or holding of such economic poison or device, including the quantity, the date of shipment and receipt, and the name of the consignor and consignee; and in the event of the inability of any person to produce records containing such information, all other records and information relating to such delivery, movement, or holding of the economic poison or device. Notwithstanding this provision, however, the specific evidence obtained under this section, or any evidence which is directly or indirectly derived from such evidence, shall not be used in a criminal prosecution of the person from whom obtained.

§ 135d. *Rules and regulations; examination of economic poisons or devices; notification to violators; certification to United States attorney; duty of attorney; publication of judgments.* (a) The Administrator (except as otherwise provided in this section) is authorized to make rules and regulations for carrying out the provisions of this subchapter, including the collection and examination of samples of economic poisons and devices subject to this subchapter and the deter-

[1] So in original. Probably should read "title 28".

mination and establishment of suitable names to be used in the ingredient statement. The Administrator is, in addition, authorized after opportunity for hearing—

(1) to declare a pest any form of plant or animal life or virus which is injurious to plants, man, domestic animals, articles, or substances;

(2) to determine economic poisons, and quantities of substances contained in economic poisons, which are highly toxic to man; and

(3) to determine standards of coloring or discoloring for economic poisons, and to subject economic poisons to the requirements of section 135a(a)(4) of this title.

(b) The Secretary of the Treasury and the Administrator shall jointly prescribe regulations for the enforcement of section 135h of this title.

(c) The examination of economic poisons or devices shall be made in the Environmental Protection Agency or elsewhere as the Administrator may designate for the purpose of determining from such examination whether they comply with the requirements of this subchapter, and if it shall appear from any such examination that they fail to comply with the requirements of this subchapter, the Administrator shall cause notice to be given to the person against whom criminal proceedings are contemplated. Any person so notified shall be given an opportunity to present his views, either orally or in writing, with regard to such contemplated proceedings, and if in the opinion of the Administrator it appears that the provisions of this subchapter have been violated by such person, then the Administrator shall certify the facts to the proper United States attorney, with a copy of the results of the analysis or the examination of such article: *Provided,* That nothing in this subchapter shall be construed as requiring the Administrator to report for prosecution or for the institution of libel proceedings minor violations of this subchapter whenever he believes that the public interest will be adequately served by a suitable written notice of warning.

(d) It shall be the duty of each United States attorney, to whom the Administrator or his agents shall report any violation of this subchapter, to cause appropriate proceedings to be commenced and prosecuted in the proper courts of the United States without delay.

(e) The Administrator shall, by publication in such manner as he may prescribe, give notice of all judgments entered in actions instituted under the authority of this subchapter.

§ 135e. *Exemptions from penalties.* (a) The penalties provided for a violation of section 135a(a) of this title shall not apply to—

(1) any person who establishes a guaranty signed by, and containing the name and address of, the registrant or person residing in the United States from whom he purchased and received in good faith the article in the same unbroken package, to the effect that the article was lawfully registered at the time of sale and delivery to him, and that it complies with the other requirements of this subchapter, designating this subchapter. In such case the guarantor shall be subject to the penalties which would otherwise attach to the person holding the guaranty under the provisions of this subchapter;

(2) any carrier while lawfully engaged in transporting an economic poison or device if such carrier upon request by a person duly designated by the Administrator shall permit such person to copy all records showing the transactions in and movement of the articles;

(3) to public officials while engaged in the performance of their official duties;

(4) to the manufacturer or shipper of an economic poison for experimental use only by or under the supervision of any Federal or State agency authorized by law to conduct research in the field of economic poisons; or by others if a permit has been obtained before shipment in accordance with regulations promulgated by the Administrator.

§ 135f. *Penalties.* (a) Any person violating section 135a(a)(1) of this title shall be guilty of a misdemeanor and shall on conviction be fined not more than $1,000.

(b) Any person violating any provision other than section 135a(a)(1) of this title shall be guilty of a misdemeanor and shall upon conviction be fined not more than $500 for the first offense, and on conviction for each subsequent offense be fined not more than $1,000 or imprisoned for not more than one year, or both such fine and imprisonment: *Provided,* That an offense committed more than five years after the last previous conviction shall be considered a first offense. An article the registration of which has been terminated may not again be registered unless the article, its labeling, and other material required to be submitted appear to the Administrator to comply with all the requirements of this subchapter.

(c) Notwithstanding any other provision of this section, in case any person, with intent to defraud, uses or reveals information relative to formulas of products acquired under the authority of section 135b of this title, he shall be fined not more than $10,000 or imprisoned for not more than three years, or both such fine and imprisonment.

(d) When construing and enforcing the provisions of this subchapter, the act, omission, or failure, of any officer, agent, or other person acting for or employed by any person shall in every case be also deemed to be the act, omission, or failure of such person as well as that of the person employed.

§ 135g. *Seizures; disposition; costs against claimant.* (a) Any economic poison or device that is being transported from one State, Territory, or District to another, or, having been transported, remains unsold or in original unbroken packages, or that is sold or offered for sale in the District of Columbia or any Territory, or that is imported from a foreign country, shall be liable to be proceeded against in any district court of the United States in the district where it is found and seized for confiscation by a process of libel for condemnation—

(1) in the case of an economic poison—

(a) if it is adulterated or misbranded;

(b) if it is not registered pursuant to the provisions of section 135b of this title;

(c) if it fails to bear on its label the information required by this subchapter; or

(d) if it is a white powder economic poison and is not colored as required under said sections; or

(2) in the case of a device if it is misbranded.

(b) If the article is condemned it shall, after entry of the decree, be disposed of by destruction or sale as the court may direct and the proceeds, if sold, less the legal costs, shall be paid into the Treasury of the United States, but the article shall not be sold contrary to the provisions of this subchapter or of the laws of the jurisdiction in which it is sold: *Provided,* That upon the payment of the costs of the libel proceedings and the execution and delivery of a good and sufficient bond conditioned that the article shall not be sold or otherwise disposed of contrary to the provisions of this subchapter or the laws of any State, Territory, or District in which sold, the court may direct that such articles be delivered to the owner thereof. The proceedings of such libel cases shall conform, as near as may be, to the proceedings in admiralty, except that either party may demand trial by jury of any issue of fact joined in any case, and all such proceedings shall be at the suit of and in the name of the United States.

(c) When a decree of condemnation is entered against the article, court costs and fees, storage, and other proper expenses shall be awarded against the person, if any, intervening as claimant of the article.

§ 135h. *Imports; prohibition against delivery; penal bonds; imposition of costs; liens.* The Secretary of the Treasury shall notify the Administrator of the arrival of economic poisons and devices offered for importation and shall deliver to the Administrator, upon his request, samples of economic poisons or devices which

are being imported or offered for import into the United States, giving notice to the owner or consignee, who may appear before the Administrator and have the right to introduce testimony. If it appears from the examination of a sample that it is adulterated, or misbranded or otherwise violates the prohibitions set forth in this subchapter, or is otherwise dangerous to the health of the people of the United States, or is of a kind forbidden entry into or forbidden to be sold or restricted in sale in the country in which it is made or from which it is exported, the said article may be refused admission, and the Secretary of the Treasury shall refuse delivery to the consignee and shall cause the destruction of any goods refused delivery which shall not be exported by the consignee within three months from the date of notice of such refusal under such regulations as the Secretary of the Treasury may prescribe: *Provided,* That the Secretary of the Treasury may deliver to the consignee such goods pending examination and decision in the matter on execution of a penal bond for the amount of the full invoice value of such goods, together with the duty thereon, and on refusal to return such goods for any cause to the custody of the Secretary of the Treasury, when demanded, for the purpose of excluding them from the country, or for any other purpose, said consignee shall forfeit the full amount of the bond: *And provided further,* That all charges for storage, cartage, and labor on goods which are refused admission or delivery shall be paid by the owner or consignee, and in default of such payment shall constitute a lien against any future importation made by such owner or consignee.

§ 135i. *Delegation of duties.* All authority vested in the Administrator by virtue of the provisions of this subchapter may with like force and effect be executed by such employees of the Environmental Protection Agency as the Administrator may designate for the purpose.

§ 135j. *Authorization of appropriations; expenditures.* (a) There is hereby authorized to be appropriated, out of any moneys in the Treasury not otherwise appropriated, such sums as may be necessary for the purposes and administration of this subchapter.

(b) The Administrator is authorized from the funds appropriated for this subchapter to make such expenditures as he deems necessary, including rents, travel, supplies, books, samples, testing devices, furniture, equipment, and such other expenses as may be necessary to the administration of this subchapter.

§ 135k. *Cooperation between departments and agencies.* The Administrator is authorized to cooperate with any other department or agency of the Federal Government and with the official agricultural or other regulatory agency of any State, or any State, Territory, District, possession, or any political subdivision thereof, in carrying out the provisions of this subchapter, and in securing uniformity of regulations.

§ 136. Definitions

For purposes of this subchapter—

(a) Active ingredient

The term "active ingredient" means—

(1) in the case of a pesticide other than a plant regulator, defoliant, or desiccant, an ingredient which will prevent, destroy, repel, or mitigate any pest;

(2) in the case of a plant regulator, an ingredient which, through physiological action, will accelerate or retard the rate of growth or rate of maturation or otherwise alter the behavior of ornamental or crop plants or the product thereof;

(3) in the case of a defoliant, an ingredient which will cause the leaves or foliage to drop from a plant; and

(4) in the case of a desiccant, an ingredient which will artificially accelerate the drying of plant tissue.

(b) Administrator

The term "Administrator" means the Administrator of the Environmental Protection Agency.

(c) Adulterated

The term "adulterated" applies to any pesticide if:

(1) its strength or purity falls below the professed standard of quality as expressed on its labeling under which it is sold;

(2) any substance has been substituted wholly or in part for the pesticide; or

(3) any valuable constituent of the pesticide has been wholly or in part abstracted.

(d) Animal

The term "animal" means all vertebrate and invertebrate species, including but not limited to man and other mammals, birds, fish, and shellfish.

(e) Certified applicator, etc.

(1) Certified applicator

The term "certified applicator" means any individual who is certified under section 136b of this title as authorized to use or supervise the use of any pesticide which is classified for restricted use.

(2) Private applicator

The term "private applicator" means a certified applicator who uses or supervises the use of any pesticide which is classified for restricted use for purposes of producing any agricultural commodity on property owned or rented by him or his employer or (if applied without compensation other than trading of personal services between producers of agricultural commodities) on the property of another person.

(3) Commercial applicator

The term "commercial applicator" means a certified applicator (whether or not he is a private applicator with respect to some uses) who uses or supervises the use of any pesticide which is classified for restricted use for any purpose or on any property other than as provided by paragraph (2).

(4) Under the direct supervision of a certified applicator

Unless otherwise prescribed by its labeling, a pesticide shall be considered to be applied under the direct supervision of a certified applicator if it is applied by a competent person acting under the instructions and control of a certified applicator who is available if and when needed, even though such certified applicator is not physically present at the time and place the pesticide is applied.

(f) Defoliant

The term "defoliant" means any substance of mixture of substances intended for causing the leaves or foliage to drop from a plant, with or without causing abscission.

(g) Desiccant

The term "desiccant" means any substance or mixture of substances intended for artificially accelerating the drying of plant tissue.

(h) Device

The term "device" means any instrument or contrivance (other than a firearm) which is in-

tended for trapping, destroying, repelling, or mitigating any pest or any other form of plant or animal life (other than man and other than bacteria, virus, or other microorganism on or in living man or other living animals); but not including equipment used for the application of pesticides when sold separately therefrom.

(i) District court

The term "district court" means a United States district court, the District Court of Guam, the District Court of the Virgin Islands, and the highest court of American Samoa.

(j) Environment

The term "environment" includes water, air, land, and all plants and man and other animals living therein, and the interrelationships which exist among these.

(k) Fungus

The term "fungus" means any non-chlorophyll-bearing thallophyte (that is, any non-chlorophyll-bearing plant of a lower order than mosses and liverworts), as for example, rust, smut, mildew, mold, yeast, and bacteria, except those on or in living man or other animals and those on or in processed food, beverages, or pharmaceuticals.

(*l*) Imminent hazard

The term "imminent hazard" means a situation which exists when the continued use of a pesticide during the time required for cancellation proceeding would be likely to result in unreasonable adverse effects on the environment or will involve unreasonable hazard to the survival of a species declared endangered or threatened by the Secretary pursuant to the Endangered Species Act of 1973.

(m) Inert ingredient

The term "inert ingredient" means an ingredient which is not active.

(n) Ingredient statement

The term "ingredient statement" means a statement which contains—

(1) the name and percentage of each active ingredient, and the total percentage of all inert ingredients, in the pesticide; and

(2) if the pesticide contains arsenic in any form, a statement of the percentages of total and water soluble arsenic, calculated as elementary arsenic.

(*o*) Insect

The term "insect" means any of the numerous small invertebrate animals generally having the body more or less obviously segmented, for the most part belonging to the class insecta, comprising six-legged, usually winged forms, as for example, beetles, bugs, bees, flies, and to other allied classes of anthropods whose members are wingless and usually have more than six legs, as for example, spiders, mites, ticks, centipedes, and wood lice.

(p) Label and labeling

(1) Label

The term "label" means the written, printed, or graphic matter on, or attached to, the pesticide or device or any of its containers or wrappers.

(2) Labeling

The term "labeling" means all labels and all other written, printed, or graphic matter—

(A) accompanying the pesticide or device at any time; or

(B) to which reference is made on the label or in literature accompanying the pesticide or device, except to current official publications of the Environmental Protection Agency, the United States Departments of Agriculture and Interior, the Department of Health, Education, and Welfare, State experiment stations, State agricultural colleges, and other similar Federal or State institutions or agencies authorized by law to conduct research in the field of pesticides.

(q) Misbranded

(1) A pesticide is misbranded if—

(A) its labeling bears any statement, design, or graphic representation relative thereto or to its ingredients which is false or misleading in any particular;

(B) it is contained in a package or other container or wrapping which does not conform to the standards established by the Administrator pursuant to section 136w(c)(3) of this title;

(C) it is an imitation of, or is offered for sale under the name of, another pesticide;

(D) its label does not bear the registration number assigned under section 136e of this title to each establishment in which it was produced;

(E) any word, statement, or other information required by or under authority of this subchapter to appear on the label or labeling is not prominently placed thereon with such conspicuousness (as compared with other words, statements, designs, or graphic matter in the labeling) and in such terms as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use;

(F) the labeling accompanying it does not contain directions for use which are necessary for effecting the purpose for which the product is intended and if complied with, together with any requirements imposed under section 136a(d) of this title, are adequate to protect health and the environment;

(G) the label does not contain a warning or caution statement which may be necessary and if complied with, together with any requirements imposed under section 136a(d) of this title, is adequate to protect health and the environment.

(2) A pesticide is misbranded if—

(A) the label does not bear an ingredient statement on that part of the immediate container (and on the outside container or wrapper of the retail package, if there be one, through which the ingredient statement on the immediate container cannot be clearly read) which is presented or displayed under customary conditions or purchase, except that a pesticide is not misbranded under this subparagraph if:

(i) The size of [1] form of the immediate container, or the outside container or

[1] So in original. Probably should be "or".

wrapper of the retail package, makes it impracticable to place the ingredient statement on the part which is presented or displayed under customary conditions of purchase; and

(ii) the ingredient statement appears prominently on another part of the immediate container, or outside container or wrapper, permitted by the Administrator;

(B) the labeling does not contain a statement of the use classification under which the product is registered;

(C) there is not affixed to its container, and to the outside container or wrapper of the retail package, if there be one, through which the required information on the immediate container cannot be clearly read, a label bearing—

(i) the name and address of the producer, registrant, or person for whom produced;

(ii) the name, brand, or trademark under which the pesticide is sold;

(iii) the net weight or measure of the content: *Provided,* That the Administrator may permit reasonable variations; and

(iv) when required by regulation of the Administrator to effectuate the purposes of this subchapter, the registration number assigned to the pesticide under this subchapter, and the use classification; and

(D) the pesticide contains any substance or substances in quantities highly toxic to man, unless the label shall bear, in addition to any other matter required by this subchapter—

(i) the skull and crossbones;

(ii) the word "poison" prominently in red on a background of distinctly contrasting color; and

(iii) a statement of a practical treatment (first aid or otherwise) in case of poisoning by the pesticide.

(r) Nematode

The term "nematode" means invertebrate animals of the phylum nemathelminthes and class nematoda, that is, unsegmented round worms with elongated, fusiform, or saclike bodies covered with cuticle, and inhabiting soil, water, plants, or plant parts; may also be called nemas or eelworms.

(s) Person

The term "person" means any individual, partnership, association, corporation, or any organized group of persons whether incorporated or not.

(t) Pest

The term "pest" means (1) any insect, rodent, nematode, fungus, weed, or (2) any other form of terrestrial or aquatic plant or animal life or virus, bacteria, or other micro-organism (except viruses, bacteria, or other micro-organisms on or in living man or other living animals) which the Administrator declares to be a pest under section 136w(c)(1) of this title.

(u) Pesticide

The term "pesticide" means (1) any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating any pest, and (2) any substance or mixture of substances intended for use as a plant regulator, defoliant, or desiccant: *Provided,* That the term "pesticide" shall not include any article (1)(a) that is a "new animal drug" within the meaning of section 321(w) of title 21, or (b) that has been determined by the Secretary of Health, Education, and Welfare not to be a new animal drug by a regulation establishing conditions of use for the article, or (2) that is an animal feed within the meaning of section 321(x) of title 21 bearing or containing an article covered by clause (1) of this proviso.

(v) Plant regulator

The term "plant regulator" means any substance or mixture of substances intended, through physiological action, for accelerating or retarding the rate of growth or rate of maturation, or for otherwise altering the behavior of plants or the produce thereof, but shall not include substances to the extent that they are intended as plant nutrients, trace elements, nutritional chemicals, plant inoculants, and soil amendments. Also, the term "plant regulator" shall not be required to include any of such of those nutrient mixtures or soil amendments as are commonly known as vitamin-hormone horticultural products, intended for improvement, maintenance, survival, health, and propagation of plants, and as are not for pest destruction and are nontoxic, nonpoisonous in the undiluted packaged concentration.

(w) Producer and produce

The term "producer" means the person who manufactures, prepares, compounds, propagates, or processes any pesticide or device. The term "produce" means to manufacture, prepare, compound, propagate, or process any pesticide or device.

(x) Protect health and the environment

The terms "protect health and the environment" and "protection of health and the environment" mean protection against any unreasonable adverse effects on the environment.

(y) Registrant

The term "registrant" means a person who has registered any pesticide pursuant to the provisions of this subchapter.

(z) Registration

The term "registration" includes reregistration.

(aa) State

The term "State" means a State, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, the Trust Territory of the Pacific Islands, and American Samoa.

(bb) Unreasonable adverse effects on the environment

The term "unreasonable adverse effects on the environment" means any unreasonable risk to man or the environment, taking into account the economic, social, and environmental costs and benefits of the use of any pesticide.

(cc) Weed

The term "weed" means any plant which grows where not wanted.

(dd) Establishment

The term "establishment" means any place where a pesticide or device is produced, or held, for distribution or sale.

(June 25, 1947, ch. 125, § 2, as added Oct. 21, 1972, Pub. L. 92-516, § 2, 86 Stat. 975, and amended Dec. 28, 1973, Pub. L. 93-205, § 13(f), 87 Stat. 903; Nov. 28, 1975, Pub. L. 94-140, § 9, 89 Stat. 754.)

REFERENCES IN TEXT

The Endangered Species Act of 1973, referred to in subdiv. (*l*), is Pub. L. 93-205, Dec. 28, 1973, 87 Stat. 884, which is classified generally to chapter 35 (§ 1531 et seq.) of Title 16, Conservation. For complete classification of this Act to the Code, see Short Title note set out under section 1531 of Title 16 and Tables volume.

AMENDMENTS

1975—Subdiv. (u). Pub. L. 94-140 added proviso which excluded from the term "pesticide" any article designated as "new animal drug" and any article denominated as animal feed.

1973—Subdiv. (*l*). Pub. L. 93-205 substituted "or threatened by the Secretary pursuant to the Endangered Species Act of 1973" for "by the Secretary of the Interior under Public Law 91-135".

EFFECTIVE DATE OF 1973 AMENDMENT

Amendment by Pub. L. 93-205 effective Dec. 28, 1973, see section 16 of Pub. L. 93-205, set out as a note under section 1531 of Title 16, Conservation.

EFFECTIVE DATE

Section 4 of Pub. L. 92-516, as amended by Pub. L. 94-140, § 4, Nov. 28, 1975, 89 Stat. 752, provided that:

"(a) Except as otherwise provided in the Federal Insecticide, Fungicide, and Rodenticide Act [this subchapter], as amended by this Act and as otherwise provided by this section, the amendments made by this Act [see Short Title notes set out hereunder] shall take effect at the close of the date of the enactment of this Act [Oct. 21, 1972], provided if regulations are necessary for the implementation of any provision that becomes effective on the date of enactment, such regulations shall be promulgated and shall become effective within 90 days from the date of enactment of this Act.

"(b) The provisions of the Federal Insecticide, Fungicide, and Rodenticide Act [this subchapter] and the regulations thereunder as such existed prior to the enactment of this Act shall remain in effect until superseded by the amendments made by this Act and regulations thereunder: *Provided*, That all provisions made by these amendments and all regulations thereunder shall be effective within five years after the enactment of this Act.

"(c)(1) Two years after the enactment of this Act the Administrator shall have promulgated regulations providing for the registration and classification of pesticides under the provisions of this Act and thereafter shall register all new applications under such provisions.

"(2) After two years but within five years after the enactment of this Act the Administrator shall register and reclassify pesticides registered under the provisions of the Federal Insecticide, Fungicide, and Rodenticide Act prior to the effective date of the regulations promulgated under subsection (c)(1).

"(3) Any requirements that a pesticide be registered for use only by a certified applicator shall not be effective until five years from the date of enactment of this Act.

"(4) A period of five years from date of enactment shall be provided for certification of applicators.

"(A) One year after the enactment of this Act the Administrator shall have prescribed the standards for the certification of applicators.

"(B) Within four years after the enactment of this Act each State desiring to certify applicators shall submit a State plan to the Administrator for the purpose provided by section 4(b).

"(C) As promptly as possible but in no event more than one year after submission of a State plan, the Administrator shall approve the State plan or disapprove it and indicate the reasons for disapproval. Consideration of plans resubmitted by States shall be expedited.

"(5) One year after the enactment of this Act the Administrator shall have promulgated and shall make effective regulations relating to the registration of establishments, permits for experimental use, and the keeping of books and records under the provisions of this Act.

"(d) No person shall be subject to any criminal or civil penalty imposed by the Federal Insecticide, Fungicide, and Rodenticide Act, as amended by this Act, for any act (or failure to act) occurring before the expiration of 60 days after the Administrator has published effective regulations in the Federal Register and taken such other action as may be necessary to permit compliance with the provisions under which the penalty is to be imposed.

"(e) For purposes of determining any criminal or civil penalty or liability to any third person in respect of any act or omission occurring before the expiration of the periods referred to in this section, the Federal Insecticide, Fungicide, and Rodenticide Act shall be treated as continuing in effect as if this Act had not been enacted."

SHORT TITLE

Section 1 of Pub. L. 92-516 provided: "That this Act [which amended this subchapter generally, and enacted notes set out under this section, and amended sections 1261 and 1471 of Title 15, and sections 321 and 346a of Title 21] may be cited as the 'Federal Environmental Pesticide Control Act of 1972'."

Section 1(a) of Act June 25, 1947, as added by Pub. L. 92-516, § 2, provided that: "This Act [which enacted this subchapter] may be cited as the 'Federal Insecticide, Fungicide, and Rodenticide Act'."

PREVENTION, CONTROL, AND ABATEMENT OF ENVIRONMENTAL POLLUTION AT FEDERAL FACILITIES

Ex. Ord. No. 11752, Dec. 17, 1973, 38 F.R. 34793, set out as a note under section 4331 of Title 42, The Public Health and Welfare, provides for the prevention, control, and abatement of environmental pollution at federal facilities.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 136w of this title.

§ 136a. Registration of pesticides

(a) Requirement

Except as otherwise provided by this subchapter, no person in any State may distribute, sell, offer for sale, hold for sale, ship, deliver for shipment, or receive and (having so received) deliver or offer to deliver, to any person any pesticide which is not registered with the Administrator.

(b) Exemptions

A pesticide which is not registered with the Administrator may be transferred if—

(1) the transfer is from one registered establishment to another registered establishment operated by the same producer solely for packaging at the second establishment or for use as a constituent part of another pesticide produced at the second establishment; or

(2) the transfer is pursuant to and in accordance with the requirements of an experimental use permit.

(c) Procedure for registration

(1) Statement required

Each applicant for registration of a pesticide shall file with the Administrator a statement which includes—

(A) the name and address of the applicant and of any other person whose name will appear on the labeling;

(B) the name of the pesticide;

(C) a complete copy of the labeling of the pesticide, a statement of all claims to be made for it, and any directions for its use;

(D) if requested by the Administrator, a full description of the tests made and the results thereof upon which the claims are based, except that data submitted on or after January 1, 1970, in support of an application shall not, without permission of the applicant, be considered by the Administrator in support of any other applicant for registration unless such other applicant shall have first offered to pay reasonable compensation for producing the test data to be relied upon and such data is not protected from disclosure by section 136h(b) of this title. The provision with regard to compensation for producing the test data to be relied upon shall apply with respect to all applications for registration or reregistration submitted on or after October 21, 1972. If the parties cannot agree on the amount and method of payment, the Administrator shall make such determination and may fix such other terms and conditions as may be reasonable under the circumstances. The Administrator's determination shall be made on the record after notice and opportunity for hearing. If either party does not agree with said determination, he may, within thirty days, take an appeal to the Federal district court for the district in which he resides with respect to either the amount of the payment or the terms of payment, or both. Registration shall not be delayed pending the determination of reasonable compensation between the applicants, by the Administrator or by the court.

(E) the complete formula of the pesticide; and

(F) a request that the pesticide be classified for general use, for restricted use, or for both.

(2) Data in support of registration

The Administrator shall publish guidelines specifying the kinds of information which will be required to support the registration of a pesticide and shall revise such guidelines from time to time. If thereafter he requires any additional kind of information he shall permit sufficient time for applicants to obtain such additional information. Except as provided by subsection (c)(1)(D) of this section and section 136h of this title, within 30 days after the Administrator registers a pesticide under this subchapter he shall make available to the public the data called for in the registration statement together with such other scientific information as he deems relevant to his decision.

(3) Time for acting with respect to application

The Administrator shall review the data after receipt of the application and shall, as expeditiously as possible, either register the pesticide in accordance with paragraph (5), or notify the applicant of his determination that it does not comply with the provisions of the subchapter in accordance with paragraph (6).

(4) Notice of application

The Administrator shall publish in the Federal Register, promptly after receipt of the statement and other data required pursuant to paragraphs (1) and (2), a notice of each application for registration of any pesticide if it contains any new active ingredient or if it would entail a changed use pattern. The notice shall provide for a period of 30 days in which any Federal agency or any other interested person may comment.

(5) Approval of registration

The Administrator shall register a pesticide if he determines that, when considered with any restrictions imposed under subsection (d) of this section—

(A) its composition is such as to warrant the proposed claims for it;

(B) its labeling and other material required to be submitted comply with the requirements of this subchapter;

(C) it will perform its intended function without unreasonable adverse effects on the environment; and

(D) when used in accordance with widespread and commonly recognized practice it will not generally cause unreasonable adverse effects on the environment.

The Administrator shall not make any lack of essentiality a criterion for denying registration of any pesticide. Where two pesticides meet the requirements of this paragraph, one should not be registered in preference to the other.

(6) Denial of registration

If the Administrator determines that the requirements of paragraph (5) for registration are not satisfied, he shall notify the applicant for registration of his determination and of his reasons (including the factual basis) therefor, and that, unless the applicant corrects the conditions and notifies the Administrator thereof during the 30-day period beginning with the day after the date on which the applicant receives the notice, the Administrator may refuse to register the pesticide. Whenever the Administrator refuses to register a pesticide, he shall notify the applicant of his decision and of his reasons (including the factual basis) therefor. The Administrator shall promptly publish in the Federal Register notice of such denial of registration and the reasons therefor. Upon such notification, the applicant for registration or other interested person with the concurrence of the applicant shall have the same remedies as provided for in section 136d of this title.

(d) Classification of pesticides

(1) Classification for general use, restricted use, or both

(A) As a part of the registration of a pesticide the Administrator shall classify it as

being for general use or for restricted use, provided that if the Administrator determines that some of the uses for which the pesticide is registered should be for general use and that other uses for which it is registered should be for restricted use, he shall classify it for both general use and restricted use. If some of the uses of the pesticide are classified for general use, and other uses are classified for restricted use, the directions relating to its general uses shall be clearly separated and distinguished from those directions relating to its restricted uses: *Provided, however,* That the Administrator may require that its packaging and labeling for restricted uses shall be clearly distinguishable from its packaging and labeling for general uses.

(B) If the Administrator determines that the pesticide, when applied in accordance with its directions for use, warnings and cautions and for the uses for which it is registered, or for one or more of such uses, or in accordance with a widespread and commonly recognized practice, will not generally cause unreasonable adverse effects on the environment, he will classify the pesticide, or the particular use or uses of the pesticide to which the determination applies, for general use.

(C) If the Administrator determines that the pesticide, when applied in accordance with its directions for use, warnings and cautions and for the uses for which it is registered, or for one or more of such uses, or in accordance with a widespread and commonly recognized practice, may generally cause, without additional regulatory restrictions, unreasonable adverse effects on the environment, including injury to the applicator, he shall classify the pesticide, or the particular use or uses to which the determination applies, for restricted use:

(i) If the Administrator classifies a pesticide, or one or more uses of such pesticide, for restricted use because of a determination that the acute dermal or inhalation toxicity of the pesticide presents a hazard to the applicator or other persons, the pesticide shall be applied for any use to which the restricted classification applies only by or under the direct supervision of a certified applicator.

(ii) If the Administrator classifies a pesticide, or one or more uses of such pesticide, for restricted use because of a determination that its use without additional regulatory restriction may cause unreasonable adverse effects on the environment, the pesticide shall be applied for any use to which the determination applies only by or under the direct supervision of a certified applicator, or subject to such other restrictions as the Administrator may provide by regulation. Any such regulation shall be reviewable in the appropriate court of appeals upon petition of a person adversely affected filed within 60 days of the publication of the regulation in final form.

(2) Change in classification

If the Administrator determines that a change in the classification of any use of a pesticide from general use to restricted use is necessary to prevent unreasonable adverse effects on the environment, he shall notify the registrant of such pesticide of such determination at least 30 days before making the change and shall publish the proposed change in the Federal Register. The registrant, or other interested person with the concurrence of the registrant, may seek relief from such determination under section 136d(b) of this title.

(e) Products with same formulation and claims

Products which have the same formulation, are manufactured by the same person, the labeling of which contains the same claims, and the labels of which bear a designation identifying the product as the same pesticide may be registered as a single pesticide; and additional names and labels shall be added to the registration by supplemental statements.

(f) Miscellaneous

(1) Effect of change of labeling or formulation

If the labeling or formulation for a pesticide is changed, the registration shall be amended to reflect such change if the Administrator determines that the change will not violate any provision of this subchapter.

(2) Registration not a defense

In no event shall registration of an article be construed as a defense for the commission of any offense under this subchapter: *Provided,* That as long as no cancellation proceedings are in effect registration of a pesticide shall be prima facie evidence that the pesticide, its labeling and packaging comply with the registration provisions of the subchapter.

(3) Authority to consult other federal agencies

In connection with consideration of any registration or application for registration under this section, the Administrator may consult with any other Federal agency.

(June 25, 1947, ch. 125, § 3, as added Oct. 21, 1972, Pub. L. 92-516, § 2, 86 Stat. 979, and amended Nov. 28, 1975, Pub. L. 94-140, § 12, 89 Stat. 755.)

AMENDMENTS

1975—Subsec. (c)(1)(D). Pub. L. 94-140 added exception relating to test data submitted on or after January 1, 1970, in support of application, added provision that compensation for producing test data shall apply to all applications submitted on or after October 21, 1972, and provision relating to delay of registration pending determination of reasonable compensation, struck out requirement that payment determined by court not be less than amount determined by Administrator, and substituted "If either party" for "If the owner of the test data".

EFFECTIVE DATE

For effective date of section, see section 4 of Pub. L. 92-516, set out as a note under section 136 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 136, 136c, 136j, 136k, 136*l*, 136m, 136v of this title.

§ 136b. Use of restricted use pesticides; certified applicators

(a) Certification procedure

(1) Federal certification

Subject to paragraph (2), the Administrator shall prescribe standards for the certification of applicators of pesticides. Such standards shall provide that to be certified, an individual must be determined to be competent with respect to the use and handling of pesticides, or to the use and handling of the pesticide or class of pesticides covered by such individual's certification: *Provided, however,* That the certification standard for a private applicator shall, under a State plan submitted for approval, be deemed fulfilled by his completing a certification form. The Administrator shall further assure that such form contains adequate information and affirmations to carry out the intent of this subchapter, and may include in the form an affirmation that the private applicator has completed a training program approved by the Administrator so long as the program does not require the private applicator to take, pursuant to a requirement prescribed by the Administrator, any examination to establish competency in the use of the pesticide. The Administrator may require any pesticide dealer participating in a certification program to be licensed under a State licensing program approved by him.

(2) State certification

If any State, at any time, desires to certify applicators of pesticides, the Governor of such State shall submit a State plan for such purpose. The Administrator shall approve the plan submitted by any State, or any modification thereof, if such plan in his judgment—

(A) designates a State agency as the agency responsible for administering the plan throughout the State;

(B) contains satisfactory assurances that such agency has or will have the legal authority and qualified personnel necessary to carry out the plan;

(C) gives satisfactory assurances that the State will devote adequate funds to the administration of the plan;

(D) provides that the State agency will make such reports to the Administrator in such form and containing such information as the Administrator may from time to time require; and

(E) contains satisfactory assurances that State standards for the certification of applicators of pesticides conform with those standards prescribed by the Administrator under paragraph (1).

Any State certification program under this section shall be maintained in accordance with the State plan approved under this section.

(b) State plans

If the Administrator rejects a plan submitted under this paragraph, he shall afford the State submitting the plan due notice and opportunity for hearing before so doing. If the Administrator approves a plan submitted under this paragraph, then such State shall certify applicators of pesticides with respect to such State. Whenever the Administrator determines that a State is not administering the certification program in accordance with the plan approved under this section, he shall so notify the State and provide for a hearing at the request of the State, and, if appropriate corrective action is not taken within a reasonable time, not to exceed ninety days, the Administrator shall withdraw approval of such plan.

(c) Instruction in integrated pest management techniques

Standards prescribed by the Administrator for the certification of applicators of pesticides under subsection (a) of this section, and State plans submitted to the Administrator under subsections (a) and (b) of this section, shall include provisions for making instructional materials concerning integrated pest management techniques available to individuals at their request in accordance with the provisions of section 136u(c) of this title, but such plans may not require that any individual receive instruction concerning such techniques or to be shown to be competent with respect to the use of such techniques. The Administrator and States implementing such plans shall provide that all interested individuals are notified on the availability of such instructional materials.

(June 25, 1947, ch. 125, § 4, as added Oct. 21, 1972, Pub. L. 92-516, § 2, 86 Stat. 983, and amended Nov. 28, 1975, Pub. L. 94-140, §§ 5, 11, 89 Stat. 753, 754.)

AMENDMENTS

1975—Subsec. (a)(1). Pub. L. 94-140, § 5, added proviso relating to Administrator's powers and duties with respect to the certification forms and requirement for pesticide dealers participating in certification program.

Subsec. (c). Pub. L. 94-140, § 11, added subsec. (c).

EFFECTIVE DATE

For effective date of section, see section 4 of Pub. L. 92-516, set out as a note under section 136 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 136, 136c of this title.

§ 136c. Experimental use permits

(a) Issuance

Any person may apply to the Administrator for an experimental use permit for a pesticide. The Administrator may issue an experimental use permit if he determines that the applicant needs such permit in order to accumulate information necessary to register a pesticide under section 136a of this title. An application for an experimental use permit may be filed at the time of or before or after an application for registration is filed.

(b) Temporary tolerance level

If the Administrator determines that the use of a pesticide may reasonably be expected to result in any residue on or in food or feed, he may establish a temporary tolerance level for the residue of the pesticide before issuing the experimental use permit.

(c) Use under permit

Use of a pesticide under an experimental use permit shall be under the supervision of the

Administrator, and shall be subject to such terms and conditions and be for such period of time as the Administrator may prescribe in the permit.

(d) Studies

When any experimental use permit is issued for a pesticide containing any chemical or combination of chemicals which has not been included in any previously registered pesticide, the Administrator may specify that studies be conducted to detect whether the use of the pesticide under the permit may cause unreasonable adverse effects on the environment. All results of such studies shall be reported to the Administrator before such pesticide may be registered under section 136a of this title.

(e) Revocation

The Administrator may revoke any experimental use permit, at any time, if he finds that its terms or conditions are being violated, or that its terms and conditions are inadequate to avoid unreasonable adverse effects on the environment.

(f) State issuance of permits

Notwithstanding the foregoing provisions of this section, the Administrator may, under such terms and conditions as he may by regulations prescribe, authorize any State to issue an experimental use permit for a pesticide. All provisions of section 136b of this title relating to State plans shall apply with equal force to a State plan for the issuance of experimental use permits under this section.

(g) Exemption for agricultural research agencies

Notwithstanding the foregoing provisions of this section, the Administrator may issue an experimental use permit for a pesticide to any public or private agricultural research agency or educational institution which applies for such permit. Each permit shall not exceed more than a one-year period or such other specific time as the Administrator may prescribe. Such permit shall be issued under such terms and conditions restricting the use of the pesticide as the Administrator may require: *Provided,* That such pesticide may be used only by such research agency or educational institution for purposes of experimentation.

(June 25, 1947, ch. 125, § 5, as added Oct. 21, 1972, Pub. L. 92-516, § 2, 86 Stat. 983, and amended Nov. 28, 1975, Pub. L. 94-140, § 10, 89 Stat. 754.)

AMENDMENTS

1975—Subsec. (g). Pub. L. 94-140 added subsec. (g).

EFFECTIVE DATE

For effective date of section, see section 4 of Pub. L. 92-516, set out as a note under section 136 of this title.

§ 136d. Administrative review; suspension

(a) Cancellation after five years

(1) Procedure

The Administrator shall cancel the registration of any pesticide at the end of the five-year period which begins on the date of its registration (or at the end of any five year period thereafter) unless the registrant, or other interested person with the concurrence of the registrant, before the end of such period, requests in accordance with regulations prescribed by the Administrator that the registration be continued in effect: *Provided,* That the Administrator may permit the continued sale and use of existing stocks of a pesticide whose registration is canceled under this subsection or subsection (b) of this section to such extent, under such conditions, and for such uses as he may specify if he determines that such sale or use is not inconsistent with the purposes of this subchapter and will not have unreasonable adverse effects on the environment. The Administrator shall publish in the Federal Register, at least 30 days prior to the expiration of such five-year period, notice that the registration will be canceled if the registrant or other interested person with the concurrence of the registrant does not request that the registration be continued in effect.

(2) Information

If at any time after the registration of a pesticide the registrant has additional factual information regarding unreasonable adverse effects on the environment of the pesticide, he shall submit such information to the Administrator.

(b) Cancellation and change in classification

If it appears to the Administrator that a pesticide or its labeling or other material required to be submitted does not comply with the provisions of this subchapter or, when used in accordance with widespread and commonly recognized practice, generally causes unreasonable adverse effects on the environment, the Administrator may issue a notice of his intent either—

(1) to cancel its registration or to change its classification together with the reasons (including the factual basis) for his action, or

(2) to hold a hearing to determine whether or not its registration should be canceled or its classification changed.

Such notice shall be sent to the registrant and made public. In determining whether to issue any such notice, the Administrator shall include among those factors to be taken into account the impact of the action proposed in such notice on production and prices of agricultural commodities, retail food prices, and otherwise on the agricultural economy. At least 60 days prior to sending such notice to the registrant or making public such notice, whichever occurs first, the Administrator shall provide the Secretary of Agriculture with a copy of such notice and an analysis of such impact on the agricultural economy. If the Secretary comments in writing to the Administrator regarding the notice and analysis within 30 days after receiving them, the Administrator shall publish in the Federal Register (with the notice) the comments of the Secretary and the response of the Administrator with regard to the Secretary's comments. If the Secretary does not comment in writing to the Administrator regarding the notice and anaylsis within 30 days after receiving them, the Administrator may notify the registrant and make public the notice at any time after such 30-day period notwithstanding the foregoing 60-day time requirement. The time requirements imposed by the preceding 3 sentences may be waived or modified to the

extent agreed upon by the Administrator and the Secretary. Notwithstanding any other provision of this subsection and section 136w(d) of this title, in the event that the Administrator determines that suspension of a pesticide registration is necessary to prevent an imminent hazard to human health, then upon such a finding the Administrator may waive the requirement of notice to and consultation with the Secretary of Agriculture pursuant to this subsection and of submission to the Scientific Advisory Panel pursuant to section 136w(d) of this title and proceed in accordance with subsection (c) of this section. The proposed action shall become final and effective at the end of 30 days from receipt by the registrant, or publication, of a notice issued under paragraph (1), whichever occurs later, unless within that time either (i) the registrant makes the necessary corrections, if possible, or (ii) a request for a hearing is made by a person adversely affected by the notice. In the event a hearing is held pursuant to such a request or to the Administrator's determination under paragraph (2), a decision pertaining to registration or classification issued after completion of such hearing shall be final. In taking any final action under this subsection, the Administrator shall include among those factors to be taken into account the impact of such final action on production and prices of agricultural commodities, retail food prices, and otherwise on the agricultural economy, and he shall publish in the Federal Register an analysis of such impact.

(c) Suspension

(1) Order

If the Administrator determines that action is necessary to prevent an imminent hazard during the time required for cancellation or change in classification proceedings, he may, by order, suspend the registration of the pesticide immediately. No order of suspension may be issued unless the Administrator has issued or at the same time issues notice of his intention to cancel the registration or change the classification of the pesticide.

Except as provided in paragraph (3), the Administrator shall notify the registrant prior to issuing any suspension order. Such notice shall include findings pertaining to the question of "imminent hazard". The registrant shall then have an opportunity, in accordance with the provisions of paragraph (2), for an expedited hearing before the Agency on the question of whether an imminent hazard exists.

(2) Expedite hearing

If no request for a hearing is submitted to the Agency within five days of the registrant's receipt of the notification provided for by paragraph (1), the suspension order may be issued and shall take effect and shall not be reviewable by a court. If a hearing is requested, it shall commence within five days of the receipt of the request for such hearing unless the registrant and the Agency agree that it shall commence at a later time. The hearing shall be held in accordance with the provisions of subchapter II of chapter 5 of title 5, except that the presiding officer need not be a certified hearing examiner. The presiding officer shall have ten days from the conclusion of the presentation of evidence to submit recommended findings and conclusions to the Administrator, who shall then have seven days to render a final order on the issue of suspension.

(3) Emergency order

Whenever the Administrator determines that an emergency exists that does not permit him to hold a hearing before suspending, he may issue a suspension order in advance of notification to the registrant. In that case, paragraph (2) shall apply except that (i) the order of suspension shall be in effect pending the expeditious completion of the remedies provided by that paragraph and the issuance of a final order on suspension, and (ii) no party other than the registrant and the Agency shall participate except that any person adversely affected may file briefs within the time allotted by the Agency's rules. Any person so filing briefs shall be considered a party to such proceeding for the purposes of section 136n(b) of this title.

(4) Judicial review

A final order on the question of suspension following a hearing shall be reviewable in accordance with section 136n of this title, notwithstanding the fact that any related cancellation proceedings have not been completed. Petitions to review orders on the issue of suspension shall be advanced on the docket of the courts of appeals. Any order of suspension entered prior to a hearing before the Administrator shall be subject to immediate review in an action by the registrant or other interested person with the concurrence of the registrant in an appropriate district court, solely to determine whether the order of suspension was arbitrary, capricious or an abuse of discretion, or whether the order was issued in accordance with the procedures established by law. The effect of any order of the court will be only to stay the effectiveness of the suspension order, pending the Administrator's final decision with respect to cancellation or change in classification. This action may be maintained simultaneously with any administrative review proceedings under this section. The commencement of proceedings under this paragraph shall not operate as a stay of order, unless ordered by the court.

(d) Public hearings and scientific review

In the event a hearing is requested pursuant to subsection (b) of this section or determined upon by the Administrator pursuant to subsection (b) of this section, such hearing shall be held after due notice for the purpose of receiving evidence relevant and material to the issues raised by the objections filed by the applicant or other interested parties, or to the issues stated by the Administrator, if the hearing is called by the Administrator rather than by the filing of objections. Upon a showing of relevance and reasonable scope of evidence sought by any party to a public hearing, the Hearing Examiner shall issue a subpena to compel testimony or production of documents from any person. The Hearing Examiner shall be guided by the principles of the Federal Rules of Civil

Procedure in making any order for the protection of the witness or the content of documents produced and shall order the payment of reasonable fees and expenses as a condition to requiring testimony of the witness. On contest, the subpena may be enforced by an appropriate United States district court in accordance with the principles stated herein. Upon the request of any party to a public hearing and when in the Hearing Examiner's judgment it is necessary or desirable, the Hearing Examiner shall at any time before the hearing record is closed refer to a Committee of the National Academy of Sciences the relevant questions of scientific fact involved in the public hearing. No member of any committee of the National Academy of Sciences established to carry out the functions of this section shall have a financial or other conflict of interest with respect to any matter considered by such committee. The Committee of the National Academy of Sciences shall report in writing to the Hearing Examiner within 60 days after such referral on these questions of scientific fact. The report shall be made public and shall be considered as part of the hearing record. The Administrator shall enter into appropriate arrangements with the National Academy of Sciences to assure an objective and competent scientific review of the questions presented to Committees of the Academy and to provide such other scientific advisory services as may be required by the Administrator for carrying out the purposes of this subchapter. As soon as practicable after completion of the hearing (including the report of the Academy) but not later than 90 days thereafter, the Administrator shall evaluate the data and reports before him and issue an order either revoking his notice of intention issued pursuant to this section, or shall issue an order either canceling the registration, changing the classification, denying the registration, or requiring modification of the labeling or packaging of the article. Such order shall be based only on substantial evidence of record of such hearing and shall set forth detailed findings of fact upon which the order is based.

(e) Judicial review

Final orders of the Administrator under this section shall be subject to judicial review pursuant to section 136n of this title.

(June 25, 1947, ch. 125, § 6, as added Oct. 21, 1972, Pub. L. 92-516, § 2, 86 Stat. 984, and amended Nov. 28, 1975, Pub. L. 94-140, § 1, 89 Stat. 751.)

CODIFICATION

"Subchapter II of chapter 5 of title 5", referred to in subsec. (c)(2), was in the original "subchapter II of Title 5", and has been editorially changed as the probable intent of Congress.

AMENDMENTS

1975—Subsec. (b). Pub. L. 94-140 established criteria which Administrator must use in determining the issuance of a suspension of registration notice and the time periods relating to such notice, set forth required procedures to be followed by Administrator prior to publication of such notice, required procedures when the Secretary elects to comment or fails to comment on suspension notice, waiver or modification of time periods in specified required procedures, required procedures for waiver of notice and consent by Secretary for suspension of registration, and established criteria for Secretary taking any final action.

EFFECTIVE DATE

For effective date of section, see section 4 of Pub. L. 92-516, set out as a note under section 136 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 136a, 136j, 136q, 136w of this title.

§ 136e. Registration of establishments

(a) Requirement

No person shall produce any pesticide subject to this subchapter in any State unless the establishment in which it is produced is registered with the Administrator. The application for registration of any establishment shall include the name and address of the establishment and of the producer who operates such establishment.

(b) Registration

Whenever the Administrator receives an application under subsection (a) of this section, he shall register the establishment and assign it an establishment number.

(c) Information required

(1) Any producer operating an establishment registered under this section shall inform the Administrator within 30 days after it is registered of the types and amounts of pesticides—

(A) which he is currently producing;

(B) which he has produced during the past year; and

(C) which he has sold or distributed during the past year.

The information required by this paragraph shall be kept current and submitted to the Administrator annually as required under such regulations as the Administrator may prescribe.

(2) Any such producer shall, upon the request of the Administrator for the purpose of issuing a stop sale order pursuant to section 136k of this title, inform him of the name and address of any recipient of any pesticide produced in any registered establishment which he operates.

(d) Confidential records and information

Any information submitted to the Administrator pursuant to subsection (c) of this section shall be considered confidential and shall be subject to the provisions of section 136h of this title.

(June 25, 1947, ch. 125, § 7, as added Oct. 21, 1972, Pub. L. 92-516, § 2, 86 Stat. 987.)

EFFECTIVE DATE

For effective date of section, see section 4 of Pub. L. 92-516, set out as a note under section 136 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 136, 136j, 136w of this title.

§ 136f. Books and records

(a) Requirements

The Administrator may prescribe regulations requiring producers to maintain such records

with respect to their operations and the pesticides and devices produced as he determines are necessary for the effective enforcement of this subchapter. No records required under this subsection shall extend to financial data, sales data other than shipment data, pricing data, personnel data, and research data (other than data relating to registered pesticides or to a pesticide for which an application for registration has been filed).

(b) Inspection

For the purposes of enforcing the provisions of this subchapter, any producer, distributor, carrier, dealer, or any other person who sells or offers for sale, delivers or offers for delivery any pesticide or device subject to this subchapter, shall, upon request of any officer or employee of the Environmental Protection Agency or of any State or political subdivision, duly designated by the Administrator, furnish or permit such person at all reasonable times to have access to, and to copy: (1) all records showing the delivery, movement, or holding of such pesticide or device, including the quantity, the date of shipment and receipt, and the name of the consignor and consignee; or (2) in the event of the inability of any person to produce records containing such information, all other records and information relating to such delivery, movement, or holding of the pesticide or device. Any inspection with respect to any records and information referred to in this subsection shall not extend to financial data, sales data other than shipment data, pricing data, personnel data, and research data (other than data relating to registered pesticides or to a pesticide for which an application for registration has been filed).

(June 25, 1947, ch. 125, § 8, as added Oct. 21, 1972, Pub. L. 92-516, § 2, 86 Stat. 987.)

EFFECTIVE DATE

For effective date of section, see section 4 of Pub. L. 92-516, set out as a note under section 136 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 136j, 136o of this title.

§ 136g. Inspection of establishments, etc.

(a) In general

For purposes of enforcing the provisions of this subchapter, officers or employees duly designated by the Administrator are authorized to enter at reasonable times, any establishment or other place where pesticides or devices are held for distribution or sale for the purpose of inspecting and obtaining samples of any pesticides or devices, packaged, labeled, and released for shipment, and samples of any containers or labeling for such pesticides or devices.

Before undertaking such inspection, the officers or employees must present to the owner, operator, or agent in charge of the establishment or other place where pesticides or devices are held for distribution or sale, appropriate credentials and a written statement as to the reason for the inspection, including a statement as to whether a violation of the law is suspected. If no violation is suspected, an alternate and sufficient reason shall be given in writing. Each such inspection shall be commenced and completed with reasonable promptness. If the officer or employee obtains any samples, prior to leaving the premises, he shall give to the owner, operator, or agent in charge a receipt describing the samples obtained and, if requested, a portion of each such sample equal in volume or weight to the portion retained. If an analysis is made of such samples, a copy of the results of such analysis shall be furnished promptly to the owner, operator, or agent in charge.

(b) Warrants

For purposes of enforcing the provisions of this subchapter and upon a showing to an officer or court of competent jurisdiction that there is reason to believe that the provisions of this subchapter have been violated, officers or employees duly designated by the Administrator are empowered to obtain and to execute warrants authorizing—

(1) entry for the purpose of this section;

(2) inspection and reproduction of all records showing the quantity, date of shipment, and the name of consignor and consignee of any pesticide or device found in the establishment which is adulterated, misbranded, not registered (in the case of a pesticide) or otherwise in violation of this subchapter and in the event of the inability of any person to produce records containing such information, all other records and information relating to such delivery, movement, or holding of the pesticide or device; and

(3) the seizure of any pesticide or device which is in violation of this subchapter.

(c) Enforcement

(1) Certification of facts to Attorney General

The examination of pesticides or devices shall be made in the Environmental Protection Agency or elsewhere as the Administrator may designate for the purpose of determining from such examinations whether they comply with the requirements of this subchapter. If it shall appear from any such examination that they fail to comply with the requirements of this subchapter, the Administrator shall cause notice to be given to the person against whom criminal or civil proceedings are contemplated. Any person so notified shall be given an opportunity to present his views, either orally or in writing, with regard to such contemplated proceedings, and if in the opinion of the Administrator it appears that the provisions of this subchapter have been violated by such person, then the Administrator shall certify the facts to the Attorney General, with a copy of the results of the analysis or the examination of such pesticide for the institution of a criminal proceeding pursuant to section 136*l*(b) of this title or a civil proceeding under section 136*l*(a) of this title, when the Administrator determines that such action will be sufficient to effectuate the purposes of this subchapter.

(2) Notice not required

The notice of contemplated proceedings and opportunity to present views set forth in this subsection are not prerequisites to the institution of any proceeding by the Attorney General.

(3) Warning notices

Nothing in this subchapter shall be construed as requiring the Administrator to institute proceedings for prosecution of minor violations of this subchapter whenever he believes that the public interest will be adequately served by a suitable written notice of warning.

(June 25, 1947, ch. 125, § 9, as added Oct. 21, 1972, Pub. L. 92-516, § 2, 86 Stat. 988.)

EFFECTIVE DATE

For effective date of section, see section 4 of Pub. L. 92-516, set out as a note under section 136 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 136j of this title.

§ 136h. Protection of trade secrets and other information

(a) In general

In submitting data required by this subchapter, the applicant may (1) clearly mark any portions thereof which in his opinion are trade secrets or commercial or financial information and (2) submit such market material separately from other material required to be submitted under this subchapter.

(b) Disclosure

Notwithstanding any other provisions of this subchapter, the Administrator shall not make public information which in his judgment contains or relates to trade secrets or commercial or financial information obtained from a person and privileged or confidential, except that, when necessary to carry out the provisions of this subchapter, information relating to formulas of products acquired by authorization of this subchapter may be revealed to any Federal agency consulted and may be revealed at a public hearing or in findings of fact issued by the Administrator.

(c) Disputes

If the Administrator proposes to release for inspection information which the applicant or registrant believes to be protected from disclosure under subsection (b) of this section, he shall notify the applicant or registrant, in writing, by certified mail. The Administrator shall not thereafter make available for inspection such data until thirty days after receipt of the notice by the applicant or registrant. During this period, the applicant or registrant may institute an action in an appropriate district court for a declaratory judgment as to whether such information is subject to protection under subsection (b) of this section.

(June 25, 1947, ch. 125, § 10, as added Oct. 21, 1972, Pub. L. 92-516, § 2, 86 Stat. 989.)

EFFECTIVE DATE

For effective date of section, see section 4 of Pub. L. 92-516, set out as a note under section 136 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 136a, 136e of this title.

§ 136i. Standards applicable to pesticide applicators

(a) In general

No regulations prescribed by the Administrator for carrying out the provisions of this subchapter shall require any private applicator to maintain any records or file any reports or other documents.

(b) Separate standards

When establishing or approving standards for licensing or certification, the Administrator shall establish separate standards for commercial and private applicators.

(June 25, 1947, ch. 125, § 11, as added Oct. 21, 1972, Pub. L. 92-516, § 2, 86 Stat. 989.)

EFFECTIVE DATE

For effective date of section, see section 4 of Pub. L. 92-516, set out as a note under section 136 of this title.

§ 136j. Unlawful acts

(a) In general

(1) Except as provided by subsection (b) of this section, it shall be unlawful for any person in any State to distribute, sell, offer for sale, hold for sale, ship, deliver for shipment, or receive and (having so received) deliver or offer to deliver, to any person—

(A) any pesticide which is not registered under section 136a of this title, except as provided by section 136d(a)(1) of this title;

(B) any registered pesticide if any claims made for it as a part of its distribution or sale substantially differ from any claims made for it as a part of the statement required in connection with its registration under section 136a of this title;

(C) any registered pesticide the composition of which differs at the time of its distribution or sale from its composition as described in the statement required in connection with its registration under section 136a of this title;

(D) any pesticide which has not been colored or discolored pursuant to the provisions of section 136w(c)(5) of this title;

(E) any pesticide which is adulterated or misbranded; or

(F) any device which is misbranded.

(2) It shall be unlawful for any person—

(A) to detach, alter, deface, or destroy, in whole or in part, any labeling required under this subchapter;

(B) to refuse to keep any records required pursuant to section 136f of this title, or to refuse to allow inspection of any records or establishment pursuant to section 136f or 136g of this title, or to refuse to allow an officer or employee of the Environmental Protection Agency to take a sample of any pesticide pursuant to section 136g of this title;

(C) to give a guaranty or undertaking provided for in subsection (b) of this section which is false in any particular, except that a person who receives and relies upon a guaranty authorized under subsection (b) of this section may give a guaranty to the same effect, which guaranty shall contain, in addition to his own name and address, the name and address of the person residing

in the United States from whom he received the guaranty or undertaking;

(D) to use for his own advantage or to reveal, other than to the Administrator, or officials or employees of the Environmental Protection Agency or other Federal executive agencies, or to the courts, or to physicians, pharmacists, and other qualified persons, needing such information for the performance of their duties, in accordance with such directions as the Administrator may prescribe, any information acquired by authority of this subchapter which is confidential under this subchapter;

(E) who is a registrant, wholesaler, dealer, retailer, or other distributor to advertise a product registered under this subchapter for restricted use without giving the classification of the product assigned to it under section 136a of this title;

(F) to make available for use, or to use, any registered pesticide classified for restricted use for some or all purposes other than in accordance with section 136a(d) of this title and any regulations thereunder;

(G) to use any registered pesticide in a manner inconsistent with its labeling;

(H) to use any pesticide which is under an experimental use permit contrary to the provisions of such permit;

(I) to violate any order issued under section 136k of this title;

(J) to violate any suspension order issued under section 136d of this title;

(K) to violate any cancellation of registration of a pesticide under section 136d of this title, except as provided by section 136d(a)(1) of this title;

(L) who is a producer to violate any of the provisions of section 136e of this title;

(M) to knowingly falsify all or part of any application for registration, application for experimental use permit, any information submitted to the Administrator pursuant to section 136e of this title, any records required to be maintained pursuant to section 136f of this title, any report filed under this subchapter, or any information marked as confidential and submitted to the Administrator under any provision of this subchapter;

(N) who is a registrant, wholesaler, dealer, retailer, or other distributor to fail to file reports required by this subchapter;

(O) to add any substance to, or take any substance from, any pesticide in a manner that may defeat the purpose of this subchapter; or

(P) to use any pesticide in tests on human beings unless such human beings (i) are fully informed of the nature and purposes of the test and of any physical and mental health consequences which are reasonably foreseeable therefrom, and (ii) freely volunteer to participate in the test.

(b) Exemptions

The penalties provided for a violation of paragraph (1) of subsection (a) of this section shall not apply to—

(1) any person who establishes a guaranty signed by, and containing the name and address of, the registrant or person residing in the United States from whom he purchased or received in good faith the pesticide in the same unbroken package, to the effect that the pesticide was lawfully registered at the time of sale and delivery to him, and that it complies with the other requirements of this subchapter, and in such case the guarantor shall be subject to the penalties which would otherwise attach to the person holding the guaranty under the provisions of this subchapter;

(2) any carrier while lawfully shipping, transporting, or delivering for shipment any pesticide or device, if such carrier upon request of any officer or employee duly designated by the Administrator shall permit such officer or employee to copy all of its records concerning such pesticide or device;

(3) any public official while engaged in the performance of his official duties;

(4) any person using or possessing any pesticide as provided by an experimental use permit in effect with respect to such pesticide and such use or possession; or

(5) any person who ships a substance or mixture of substances being put through tests in which the purpose is only to determine its value for pesticide purposes or to determine its toxicity or other properties and from which the user does not expect to receive any benefit in pest control from its use.

(June 25, 1947, ch. 125, § 12, as added Oct. 21, 1972, Pub. L. 92-516, § 2, 86 Stat. 989.)

EFFECTIVE DATE

For effective date of section, see section 4 of Pub. L. 92-516, set out as a note under section 136 of this title.

§ 136k. Stop sale, use, removal, and seizure

(a) Stop sale, etc., orders

Whenever any pesticide or device is found by the Administrator in any State and there is reason to believe on the basis of inspection or tests that such pesticide or device is in violation of any of the provisions of this subchapter, or that such pesticide or device has been or is intended to be distributed or sold in violation of any such provisions, or when the registration of the pesticide has been canceled by a final order or has been suspended, the Administrator may issue a written or printed "stop sale, use, or removal" order to any person who owns, controls, or has custody of such pesticide or device, and after receipt of such order no person shall sell, use, or remove the pesticide or device described in the order except in accordance with the provisions of the order.

(b) Seizure

Any pesticide or device that is being transported or, having been transported, remains unsold or in original unbroken packages, or that is sold or offered for sale in any State, or that is imported from a foreign country, shall be liable to be proceeded against in any district court in the district where it is found and seized for confiscation by a process in rem for condemnation if—

(1) in the case of a pesticide—

(A) it is adulterated or misbranded;

(B) it is not registered pursuant to the provisions of section 136a of this title;

(C) its labeling fails to bear the information required by this subchapter;

(D) it is not colored or discolored and such coloring or discoloring is required under this subchapter; or

(E) any of the claims made for it or any of the directions for its use differ in substance from the representations made in connection with its registration;

(2) in the case of a device, it is misbranded; or

(3) in the case of a pesticide or device, when used in accordance with the requirements imposed under this subchapter and as directed by the labeling, it nevertheless causes unreasonable adverse effects on the environment. In the case of a plant regulator, defoliant, or desiccant, used in accordance with the label claims and recommendations, physical or physiological effects on plants or parts thereof shall not be deemed to be injury, when such effects are the purpose for which the plant regulator, defoliant, or desiccant was applied.

(c) Disposition after condemnation

If the pesticide or device is condemned it shall, after entry of the decree, be disposed of by destruction or sale as the court may direct and the proceeds, if sold, less the court costs, shall be paid into the Treasury of the United States, but the pesticide or device shall not be sold contrary to the provisions of this subchapter or the laws of the jurisdiction in which it is sold: *Provided,* That upon payment of the costs of the condemnation proceedings and the execution and delivery of a good and sufficient bond conditioned that the pesticide or device shall not be sold or otherwise disposed of contrary to the provisions of the subchapter or the laws of any jurisdiction in which sold, the court may direct that such pesticide or device be delivered to the owner thereof. The proceedings of such condemnation cases shall conform, as near as may be to the proceedings in admiralty, except that either party may demand trial by jury of any issue of fact joined in any case, and all such proceedings shall be at the suit of and in the name of the United States.

(d) Court costs, etc.

When a decree of condemnation is entered against the pesticide or device, court costs and fees, storage, and other proper expenses shall be awarded against the person, if any, intervening as claimant of the pesticide or device.

(June 25, 1947, ch. 125, § 13, as added Oct. 21, 1972, Pub. L. 92-516, § 2, 86 Stat. 991.)

EFFECTIVE DATE

For effective date of section, see section 4 of Pub. L. 92-516, set out as a note under section 136 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 136e, 136j of this title.

§ 136*l*. Penalties

(a) Civil penalties

(1) In general

Any registrant, commercial applicator, wholesaler, dealer, retailer, or other distributor who violates any provision of this subchapter may be assessed a civil penalty by the Administrator of not more than $5,000 for each offense.

(2) Private applicator

Any private applicator or other person not included in paragraph (1) who violates any provision of this subchapter subsequent to receiving a written warning from the Administrator or following a citation for a prior violation, may be assessed a civil penalty by the Administrator of not more than $1,000 for each offense.

(3) Hearing

No civil penalty shall be assessed unless the person charged shall have been given notice and opportunity for a hearing on such charge in the county, parish, or incorporated city of the residence of the person charged. In determining the amount of the penalty the Administrator shall consider the appropriateness of such penalty to the size of the business of the person charged, the effect on the person's ability to continue in business, and the gravity of the violation.

(4) References to Attorney General

In case of inability to collect such civil penalty or failure of any person to pay all, or such portion of such civil penalty as the Administrator may determine, the Administrator shall refer the matter to the Attorney General, who shall recover such amount by action in the appropriate United States district court.

(b) Criminal penalties

(1) In general

Any registrant, commercial applicator, wholesaler, dealer, retailer, or other distributor who knowingly violates any provision of this subchapter shall be guilty of a misdemeanor and shall on conviction be fined not more than $25,000, or imprisoned for not more than one year, or both.

(2) Private applicator

Any private applicator or other person not included in paragraph (1) who knowingly violates any provision of this subchapter shall be guilty of a misdemeanor and shall on conviction be fined not more than $1,000, or imprisoned for not more than 30 days, or both.

(3) Disclosure of information

Any person, who, with intent to defraud, uses or reveals information relative to formulas of products acquired under the authority of section 136a of this title, shall be fined not more than $10,000, or imprisoned for not more than three years, or both.

(4) Acts of officers, agents, etc.

When construing and enforcing the provisions of this subchapter, the act, omission, or failure of any officer, agent, or other person acting for or employed by any person shall in every case be also deemed to be the act, omission, or failure of such person as well as that of the person employed.

(June 25, 1947, ch. 125, § 14, as added Oct. 21, 1972, Pub. L. 92-516, § 2, 86 Stat. 992.)

EFFECTIVE DATE

For effective date of section, see section 4 of Pub. L. 92-516, set out as a note under section 136 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 136g of this title.

§ 136m. Indemnities

(a) Requirement

If—

(1) the Administrator notifies a registrant that he has suspended the registration of a pesticide because such action is necessary to prevent an imminent hazard;

(2) the registration of the pesticide is canceled as a result of a final determination that the use of such pesticide will create an imminent hazard; and

(3) any person who owned any quantity of such pesticide immediately before the notice to the registrant under paragraph (1) suffered losses by reason of suspension or cancellation of the registration,

the Administrator shall make an indemnity payment to such person, unless the Administrator finds that such person (i) had knowledge of facts which, in themselves, would have shown that such pesticide did not meet the requirements of section 136a(c)(5) of this title for registration, and (ii) continued thereafter to produce such pesticide without giving timely notice of such facts to the Administrator.

(b) Amount of payment

(1) In general

The amount of the indemnity payment under subsection (a) of this section to any person shall be determined on the basis of the cost of the pesticide owned by such person immediately before the notice to the registrant referred to in subsection (a)(1) of this section; except that in no event shall an indemnity payment to any person exceed the fair market value of the pesticide owned by such person immediately before the notice referred to in subsection (a)(1) of this section.

(2) Special rule

Notwithstanding any other provision of this subchapter the Administrator may provide a reasonable time for use or other disposal of such pesticide. In determining the quantity of any pesticide for which indemnity shall be paid under this subsection, proper adjustment shall be made for any pesticide used or otherwise disposed of by such owner.

(June 25, 1947, ch. 125, § 15, as added Oct. 21, 1972, Pub. L. 92-516, § 2, 86 Stat. 993.)

EFFECTIVE DATE

For effective date of section, see section 4 of Pub. L. 92-516, set out as a note under section 136 of this title.

§ 136n. Administrative procedure; judicial review

(a) District court review

Except as is otherwise provided in this subchapter, Agency refusals to cancel or suspend registrations or change classifications not following a hearing and other final Agency actions not committed to Agency discretion by law are judicially reviewable in the district courts.

(b) Review by court of appeals

In the case of actual controversy as to the validity of any order issued by the Administrator following a public hearing, any person who will be adversely affected by such order and who had been a party to the proceedings may obtain judicial review by filing in the United States court of appeals for the circuit wherein such person resides or has a place of business, within 60 days after the entry of such order, a petition praying that the order be set aside in whole or in part. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Administrator or any officer designated by him for that purpose, and thereupon the Administrator shall file in the court the record of the proceedings on which he based his order, as provided in section 2112 of title 28. Upon the filing of such petition the court shall have exclusive jurisdiction to affirm or set aside the order complained of in whole or in part. The court shall consider all evidence of record. The order of the Administrator shall be sustained if it is supported by substantial evidence when considered on the record as a whole. The judgment of the court affirming or setting aside, in whole or in part, any order under this section shall be final, subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28. The commencement of proceedings under this section shall not, unless specifically ordered by the court to the contrary, operate as a stay of an order. The court shall advance on the docket and expedite the disposition of all cases filed therein pursuant to this section.

(c) Jurisdiction of district courts

The district courts of the United States are vested with jurisdiction specifically to enforce, and to prevent and restrain violations of, this subchapter.

(d) Notice of judgments

The Administrator shall, by publication in such manner as he may prescribe, give notice of all judgments entered in actions instituted under the authority of this subchapter.

(June 25, 1947, ch. 125, § 16, as added Oct. 21, 1972, Pub. L. 92-516, § 2, 86 Stat. 994.)

EFFECTIVE DATE

For effective date of section, see section 4 of Pub. L. 92-516, set out as a note under section 136 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 136d of this title.

§ 136o. Imports and exports

(a) Pesticides and devices intended for export

Notwithstanding any other provision of this subchapter, no pesticide or device shall be deemed in violation of this subchapter when intended solely for export to any foreign country and prepared or packed according to the specifications or directions of the foreign purchaser, except that producers of such pesticides and devices shall be subject to section 136f of this title.

(b) Cancellation notices furnished to foreign governments

Whenever a registration, or a cancellation or suspension of the registration of a pesticide becomes effective, or ceases to be effective, the Administrator shall transmit through the State Department notification thereof to the governments of other countries and to appropriate international agencies.

(c) Importation of pesticides and devices

The Secretary of the Treasury shall notify the Administrator of the arrival of pesticides and devices and shall deliver to the Administrator, upon his request, samples of pesticides or devices which are being imported into the United States, giving notice to the owner or consignee, who may appear before the Administrator and have the right to introduce testimony. If it appears from the examination of a sample that it is adulterated, or misbranded or otherwise violated the provisions set forth in this subchapter, or is otherwise injurious to health or the environment, the pesticide or device may be refused admission, and the Secretary of the Treasury shall refuse delivery to the consignee and shall cause the destruction of any pesticide or device refused delivery which shall not be exported by the consignee within 90 days from the date of notice of such refusal under such regulations as the Secretary of the Treasury may prescribe: *Provided,* That the Secretary of the Treasury may deliver to the consignee such pesticide or device pending examination and decision in the matter on execution of bond for the amount of the full invoice value of such pesticide or device, together with the duty thereon, and on refusal to return such pesticide or device for any cause to the custody of the Secretary of the Treasury, when demanded, for the purpose of excluding them from the country, or for any other purpose, said consignee shall forfeit the full amount of said bond: *And provided further,* That all charges for storage, cartage, and labor on pesticides or devices which are refused admission or delivery shall be paid by the owner or consignee, and in default of such payment shall constitute a lien against any future importation made by such owner or consignee.

(d) Cooperation in international efforts

The Administrator shall, in cooperation with the Department of State and any other appropriate Federal agency, participate and cooperate in any international efforts to develop improved pesticide research and regulations.

(e) Regulations

The Secretary of the Treasury, in consultation with the Administrator, shall prescribe regulations for the enforcement of subsection (c) of this section.

(June 25, 1947, ch. 125, § 17, as added Oct. 21, 1972, Pub. L. 92-516, § 2, 86 Stat. 995.)

EFFECTIVE DATE

For effective date of section, see section 4 of Pub. L. 92-516, set out as a note under section 136 of this title.

§ 136p. Exemption of Federal agencies

The Administrator may, at his discretion, exempt any Federal or State agency from any provision of this subchapter if he determines that emergency conditions exist which require such exemption. The Administrator, in determining whether or not such emergency conditions exist, shall consult with the Secretary of Agriculture and the Governor of any State concerned if they request such determination.

(June 25, 1947, ch. 125, § 18, as added Oct. 21, 1972, Pub. L. 92-516, § 2, 86 Stat. 995, and amended Nov. 28, 1975, Pub. L. 94-140, § 8, 89 Stat. 754.)

AMENDMENTS

1975—Pub. L. 94-140 added provision requiring Administrator to consult with Secretary of Agriculture and Governor of State concerned in determining whether an emergency situation exists.

EFFECTIVE DATE

For effective date of section, see section 4 of Pub. L. 92-516, set out as a note under section 136 of this title.

§ 136q. Disposal and transportation

(a) Procedures

The Administrator shall, after consultation with other interested Federal agencies, establish procedures and regulations for the disposal or storage of packages and containers of pesticides and for disposal or storage of excess amounts of such pesticides, and accept at convenient locations for safe disposal a pesticide the registration of which is canceled under section 136d(c) of this title if requested by the owner of the pesticide.

(b) Advice to Secretary of Transportation

The Administrator shall provide advice and assistance to the Secretary of Transportation with respect to his functions relating to the transportation of hazardous materials under the Department of Transportation Act (49 U.S.C. 1657), the Transportation of Explosives Act (18 U.S.C. 831-835), the Federal Aviation Act of 1958 (49 U.S.C. 1421-1430, 1472(h)), and the Hazardous Cargo Act (46 U.S.C. 170, 375, 416).

(June 25, 1947, ch. 125, § 19, as added Oct. 21, 1972, Pub. L. 92-516, § 2, 86 Stat. 995.)

REFERENCES IN TEXT

The Department of Transportation Act, referred to in subsec. (b), is Pub. L. 89-670, Oct. 15, 1966, 80 Stat. 931. For classification of this Act to the Code, see Short Title note set out under section 1651 of Title 49, Transportation, and Tables volume.

The Federal Aviation Act of 1958, referred to in subsec. (b), is Pub. L. 85-726, Aug. 23, 1958, 72 Stat. 731. For classification of this Act to the Code, see Short Title note set out under section 1301 of Title 49, Transportation, and Tables volume.

EFFECTIVE DATE

For effective date of section, see section 4 of Pub. L. 92-516, set out as a note under section 136 of this title.

§ 136r. Research and monitoring

(a) Research

The Administrator shall undertake research including research by grant or contract with other Federal agencies, universities, or others as may be necessary to carry out the purposes of this subchapter, and he shall give priority to research to develop biologically integrated al-

ternatives for pest control. The Administrator shall also take care to insure that such research does not duplicate research being undertaken by any other Federal agency.

(b) National monitoring plan

The Administrator shall formulate, and periodically revise, in cooperation with other Federal, State, or local agencies, a national plan for monitoring pesticides.

(c) Monitoring

The Administrator shall undertake such monitoring activities, including but not limited to monitoring in air, soil, water, man, plants, and animals, as may be necessary for the implementation of this subchapter and of the national pesticide monitoring plan. Such activities shall be carried out in cooperation with other Federal, State, and local agencies.

(June 25, 1947, ch. 125, § 20, as added Oct. 21, 1972, Pub. L. 92-516, § 2, 86 Stat. 996.)

EFFECTIVE DATE

For effective date of section, see section 4 of Pub. L. 92-516, set out as a note under section 136 of this title.

§ 136s. Solicitation of comments; notice of public hearings

(a) The Administrator, before publishing regulations under this subchapter, shall solicit the views of the Secretary of Agriculture in accordance with the procedure described in section 136w(a) of this title.

(b) In addition to any other authority relating to public hearings and solicitation of views, in connection with the suspension or cancellation of a pesticide registration or any other actions authorized under this subchapter, the Administrator may, at his discretion, solicit the views of all interested persons, either orally or in writing, and seek such advice from scientists, farmers, farm organizations, and other qualified persons as he deems proper.

(c) In connection with all public hearings under this subchapter the Administrator shall publish timely notice of such hearings in the Federal Register.

(June 25, 1947, ch. 125, § 21, as added Oct. 21, 1972, Pub. L. 92-516, § 2, 86 Stat. 996, and amended Nov. 28, 1975, Pub. L. 94-140, § 2(b), 89 Stat. 752.)

AMENDMENTS

1975—Subsec. (a). Pub. L. 94-140 added "in accordance with the procedure described in section 136w(a) of this title" following "Secretary of Agriculture".

EFFECTIVE DATE

For effective date of section, see section 4 of Pub. L. 92-516, set out as a note under section 136 of this title.

§ 136t. Delegation and cooperation

(a) Delegation

All authority vested in the Administrator by virtue of the provisions of this subchapter may with like force and effect be executed by such employees of the Environmental Protection Agency as the Administrator may designate for the purpose.

(b) Cooperation

The Administrator shall cooperate with Department of Agriculture, any other Federal agency, and any appropriate agency of any State or any political subdivision thereof, in carrying out the provisions of this subchapter, and in securing uniformity of regulations.

(June 25, 1947, ch. 125, § 22, as added Oct. 21, 1972, Pub. L. 92-516, § 2, 86 Stat. 996.)

EFFECTIVE DATE

For effective date of section, see section 4 of Pub. L. 92-516, set out as a note under section 136 of this title.

§ 136u. State cooperation, aid, and training

(a) Cooperative agreements

The Administrator is authorized to enter into cooperative agreements with States—

(1) to delegate to any State the authority to cooperate in the enforcement of the subchapter through the use of its personnel or facilities, to train personnel of the State to cooperate in the enforcement of this subchapter, and to assist States in implementing cooperative enforcement programs through grants-in-aid; and

(2) to assist State agencies in developing and administering State programs for training and certification of applicators consistent with the standards which he prescribes.

(b) Contracts for training

In addition, the Administrator is authorized to enter into contracts with Federal or State agencies for the purpose of encouraging the training of certified applicators.

(c) Cooperative State extension Services

The Administrator may, in cooperation with the Secretary of Agriculture, utilize the services of the Cooperative State Extension Services for informing farmers of accepted uses and other regulations made pursuant to this subchapter.

(June 25, 1947, ch. 125, § 23, as added Oct. 21, 1972, Pub. L. 92-516, § 2, 86 Stat. 996.)

EFFECTIVE DATE

For effective date of section, see section 4 of Pub. L. 92-516, set out as a note under section 136 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 136b of this title.

§ 136v. Authority of States

(a) A State may regulate the sale or use of any pesticide or device in the State, but only if and to the extent the regulation does not permit any sale or use prohibited by this subchapter;

(b) such State shall not impose or continue in effect any requirements for labeling and packaging in addition to or different from those required pursuant to this subchapter; and

(c) a State may provide registration for pesticides formulated for distribution and use within that State to meet special local needs if that State is certified by the Administrator as capable of exercising adequate controls to assure that such registration will be in accord with the purposes of this subchapter and if registration for such use has not previously been denied, disapproved, or canceled by the Administrator.

Such registration shall be deemed registration under section 136a of this title for all purposes of this subchapter, but shall authorize distribution and use only within such State and shall not be effective for more than 90 days if disapproved by the Administrator within that period.

(June 25, 1947, ch. 125, § 24, as added Oct. 21, 1972, Pub. L. 92-516, § 2, 86 Stat. 997.)

EFFECTIVE DATE

For effective date of section, see section 4 of Pub. L. 92-516, set out as a note under section 136 of this title.

§ 136w. Authority of Administrator

(a) Regulations

(1) Authorization

The Administrator is authorized, in accordance with the procedure described in paragraph (2), to prescribe regulations to carry out the provisions of this subchapter. Such regulations shall take into account the difference in concept and usage between various classes of pesticides.

(2) Procedure

(A) Proposed regulations

At least 60 days prior to signing any proposed regulation for publication in the Federal Register, the Administrator shall provide the Secretary of Agriculture with a copy of such regulation. If the Secretary comments in writing to the Administrator regarding any such regulation within 30 days after receiving it, the Administrator shall publish in the Federal Register (with the proposed regulation) the comments of the Secretary and the response of the Administrator with regard to the Secretary's comments. If the Secretary does not comment in writing to the Administrator regarding the regulation within 30 days after receiving it, the Administrator may sign such regulation for publication in the Federal Register any time after such 30-day period notwithstanding the foregoing 60-day time requirement.

(B) Final regulations

At least 30 days prior to signing any regulation in final form for publication in the Federal Register, the Administrator shall provide the Secretary of Agriculture with a copy of such regulation. If the Secretary comments in writing to the Administrator regarding any such final regulation within 15 days after receiving it, the Administrator shall publish in the Federal Register (with the final regulation) the comments of the Secretary, if requested by the Secretary, and the response of the Administrator concerning the Secretary's comments. If the Secretary does not comment in writing to the Administrator regarding the regulation within 15 days after receiving it, the Administrator may sign such regulation for publication in the Federal Register at any time after such 15-day period notwithstanding the foregoing 30-day time requirement.

(C) Time requirements

The time requirements imposed by subparagraphs (A) and (B) may be waived or modified to the extent agreed upon by the Administrator and the Secretary.

(D) Publication in the Federal Register

The Administrator shall, simultaneously with any notification to the Secretary of Agriculture under this paragraph prior to the issuance of any proposed or final regulation, publish such notification in the Federal Register.

(3) Congressional committees

At such time as the Administrator is required under paragraph (2) of this subsection to provide the Secretary of Agriculture with a copy of proposed regulations and a copy of the final form of regulations, he shall also furnish a copy of such regulations to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate.

(b) Exemption of pesticides

The Administrator may exempt from the requirements of this subchapter by regulation any pesticide which he determines either (1) to be adequately regulated by another Federal agency, or (2) to be of a character which is unnecessary to be subject to this subchapter in order to carry out the purposes of this subchapter.

(c) Other authority

The Administrator, after notice and opportunity for hearing, is authorized—

(1) to declare a pest any form of plant or animal life (other than man and other than bacteria, virus, and other micro-organisms on or in living man or other living animals) which is injurious to health or the environment;

(2) to determine any pesticide which contains any substance or substances in quantities highly toxic to man;

(3) to establish standards (which shall be consistent with those established under the authority of the Poison Prevention Packaging Act (Public Law 91-601) [15 U.S.C. 1471 et seq.]) with respect to the package, container, or wrapping in which a pesticide or device is enclosed for use or consumption, in order to protect children and adults from serious injury or illness resulting from accidental ingestion or contact with pesticides or devices regulated by this subchapter as well as to accomplish the other purposes of this subchapter;

(4) to specify those classes of devices which shall be subject to any provision of section 136(q)(1) or section 136e of this title upon his determination that application of such provision is necessary to effectuate the purposes of this subchapter;

(5) to prescribe regulations requiring any pesticide to be colored or discolored if he determines that such requirement is feasible and is necessary for the protection of health and the environment; and

(6) to determine and establish suitable names to be used in the ingredient statement.

(d) Scientific advisory panel

The Administrator shall submit to an advisory panel for comment as to the impact on health and the environment of the action pro-

posed in notices of intent issued under section 136d(b) of this title and of the proposed and final form of regulations issued under subsection (a) of this section within the same time periods as provided for the comments of the Secretary of Agriculture under such section 136d(b) and subsection (a) of this section. The time requirements for notices of intent and proposed and final forms of regulation may not be modified or waived unless in addition to meeting the requirements of section 136d(b) of this title or subsection (a) of this section, as applicable, the advisory panel has failed to comment on the proposed action within the prescribed time period or has agreed to the modification or waiver. The comments of the advisory panel and the response of the Administrator shall be published in the Federal Register in the same manner as provided for publication of the comments of the Secretary of Agriculture under such section 136d(b) and subsection (a) of this section. The panel referred to in this subsection shall consist of seven members appointed by the Administrator from a list of 12 nominees, six nominated by the National Institutes of Health, and six by the National Science Foundation. The Administrator may require such information from the nominees to the advisory panel as he deems necessary, and he shall publish in the Federal Register the name, address, and professional affiliations of each nominee. Each member of the panel shall receive per diem compensation at a rate not in excess of that fixed for GS-18 of the General Schedule as may be determined by the Administrator, except that any such member who holds another office of position under the Federal Government the compensation for which exceeds such rate may elect to receive compensation at the rate provided for such other office or position in lieu of the compensation provided by this subsection. In order to assure the objectivity of the advisory panel, the Administrator shall promulgate regulations regarding conflicts of interest with respect to the members of the panel.

(June 25, 1947, ch. 125, § 25, as added Oct. 21, 1972, Pub. L. 92-516, § 2, 86 Stat. 997, and amended Nov. 28, 1975, Pub. L. 94-140, §§ 2(a), 6, 7, 89 Stat. 751, 753; S. Res. 4, Feb. 4, 1977.)

REFERENCES IN TEXT

The Poison Prevention Packaging Act, referred to in subsec. (c)(3), is Pub. L. 91-601, Dec. 30, 1970, 84 Stat 1670, which is classified generally to chapter 39A (§ 1471 et seq.) of Title 15, Commerce and Trade. For complete classification of this Act to the Code, see Short Title note set out under section 1471 of Title 15, and Tables volume.

References in subsec. (c)(4) to "section 136(q)(1)" was, in the original, a reference to "paragraph 2(q)(1)" and has been editorially translated as "section 136(q)(1)" as the probable intent of Congress.

GS-18 of the General Schedule, referred to in subsec. (d), is classified to section 5332 of Title 5, Government Organization and Employees.

AMENDMENTS

1975—Subsec. (a)(1). Pub. L. 94-140, § 2(a)(1), (2), redesignated existing provision as subsec. (a)(1), and, as so redesignated, added ", in accordance with the procedure described in paragraph (2)," following "is authorized".

Subsec. (a)(2). Pub. L. 94-140, § 2(a)(3), added subsec. (a)(2).

Subsec. (a)(3). Pub. L. 94-140, § 6, added subsec. (a)(3).

Subsec. (d). Pub. L. 94-140, § 7, added subsec. (d).

CHANGE OF NAME

The Committee on Agriculture and Forestry of the Senate was abolished and replaced by the Committee on Agriculture, Nutrition, and Forestry of the Senate, effective Feb. 11, 1977. See Rule XXV of the Standing Rules of the Senate, as amended by Senate Resolution 4 (popularly cited as the "Committee System Reorganization Amendments of 1977"), approved Feb. 4, 1977.

EFFECTIVE DATE

For effective date of section, see section 4 of Pub. L. 92-516, set out as a note under section 136 of this title.

TERMINATION OF ADVISORY PANELS

Advisory Panels established after Jan. 5, 1973, to terminate not later than the expiration of the two-year period beginning on the date of their establishment, unless, in the case of a panel established by the President or an officer of the Federal Government, such panel is renewed by appropriate action prior to the expiration of such two-year period, or in the case of a panel established by the Congress, its duration is otherwise provided for by law, see sections 3(2) and 14 of Pub. L. 92-463, Oct. 6, 1972, 86 Stat. 770, set out in the Appendix to Title 5, Government Organization and Employees.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 136, 136d, 136j, 136s of this title.

§ 136x. Severability

If any provision of this subchapter or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of this subchapter which can be given effect without regard to the invalid provision or application, and to this end the provisions of this subchapter are severable.

(June 25, 1947, ch. 125, § 26, as added Oct. 21, 1972, Pub. L. 92-516, § 2, 86 Stat. 998.)

EFFECTIVE DATE

For effective date of section, see section 4 of Pub. L. 92-516, set out as a note under section 136 of this title.

§ 136y. Authorization of appropriations

There is authorized to be appropriated such sums as may be necessary to carry out the provisions of this subchapter for each of the fiscal years ending June 30, 1973, June 30, 1974, and June 30, 1975. The amounts authorized to be appropriated for any fiscal year ending after June 30, 1975, shall be the sums hereafter provided by law. There is hereby authorized to be appropriated to carry out the provisions of this subchapter for the period beginning July 1, 1975, and ending September 30, 1975, the sum of $11,967,000. There is hereby authorized to be appropriated to carry out the provisions of this subchapter for the period beginning October 1, 1975, and ending November 15, 1975, the sum of $5,983,500. There are hereby authorized to be appropriated to carry out the provisions of this subchapter for the period beginning October 1, 1975, and ending September 30, 1976, the sum of $47,868,000, and for the period beginning Oc-

tober 1, 1976, and ending March 31, 1977, the sum of $23,600,000.

(June 25, 1947, ch. 125, § 27, as added Oct. 21, 1972, Pub. L. 92-516, § 2, 86 Stat. 998, and amended July 2, 1975, Pub. L. 94-51, 89 Stat. 257; Oct. 10, 1975, Pub. L. 94-109, 89 Stat. 571; Nov. 28, 1975, Pub. L. 94-140, § 3, 89 Stat. 752.)

AMENDMENTS

1975—Pub. L. 94-140 authorized the appropriation of $47,868,000 to carry out the provisions of this subchapter for the period beginning October 1, 1975, and ending September 30, 1976, and $23,600,000 for period beginning October 1, 1976, and ending March 31, 1977.

Pub. L. 94-109 added provisions authorizing appropriation of $5,983,500 for the period beginning October 1, 1975 and ending November 15, 1975.

Pub. L. 94-51 authorized the appropriation of $11,967,000 to carry out the provisions of this subchapter for the period beginning July 1, 1975, and ending September 30, 1975.

EFFECTIVE DATE

For effective date of section, see section 4 of Pub. L. 92-516, set out as a note under section 136 of this title.

CHAPTER 7—INSECT PESTS GENERALLY

Sec.
141 to 145. Repealed.
146, 147. Omitted.
147a. Control and eradication of plant pests.
(a) Authority of Secretary of Agriculture.
(b) Intergovernmental cooperation.
(c) Cooperating foreign agency.
(d) Definitions.
(e) Rules and regulations.
(f) Authorization of appropriations.
148. Control of insect pests and plant diseases.
148a. Availability of appropriated money for general administration; personnel; field work, etc.
148b. Repealed.
148c. Control of insect pests and plant diseases; cooperation of States.
148d. Restrictions on appropriations.
148e. Authorization of appropriations.
149. Regulation, cleaning, etc., of vehicles and materials entering from Mexico; administration by Secretary; fees.

MEDITERRANEAN FRUIT FLY INVESTIGATION BOARD

Act May 23, 1938, ch. 260, 52 Stat. 426, which created the Board for investigative purposes expired by its own terms on Mar. 15, 1939.

TICK ERADICATION ON SEMINOLE RESERVATION IN FLORIDA

Act July 22, 1942, ch. 516, § 1, 56 Stat. 675, which provided in part for the eradication of ticks on the Seminole Reservation was a provision of the Department of Agriculture Appropriation Act, 1943, and expired on June 30, 1943.

§§ 141 to 144. Repealed. Pub. L. 85-36, title I, § 111, May 23, 1957, 71 Stat. 35

Sections were from act March 3, 1905, ch. 1501, §§ 1 to 4, 33 Stat. 1269, and are now covered by Chapter 7B of this title.

Section 141 prohibited transportation or removal of insect pests.

Section 142 related to punishment for mailing parcels, etc., containing insect pests.

Section 143 related to regulations for mailing, transportation, etc., of insect pests for scientific purposes.

Section 144, amended Sept. 3, 1954, ch. 1263, § 16, 68 Stat. 1232, related to punishment for unlawful transportation or removal of insect pests.

CONTINUATION OF PROVISIONS

Sections amended or repealed by Pub. L. 85-36 to continue in force as to rights, liabilities and violations that occurred before May 23, 1957, and findings, regulations, other orders, permits and certificates issued before May 23, 1957, as remaining in effect until modified, see note set out under section 147a of this title.

§ 145. Repealed. Pub. L. 94-231, § 2, Mar. 15, 1976, 90 Stat. 216

Section, act Oct. 6, 1917, ch. 79, § 1, 40 Stat. 374, provided for cooperation with Mexico and adjacent States in the extermination of pink bollworm infestations in Mexico, and related operations.

§§ 146, 147. Omitted

CODIFICATION

Section 146, act Feb. 9, 1927, ch. 90, 44 Stat. 1065, authorized an appropriation of $10,000,000 to eradicate or control the European corn borer.

Section 147, act May 24, 1928, ch. 734, 45 Stat. 734, authorized an additional appropriation of $7,000,000 to eradicate or control the European corn borer.

§ 147a. Control and eradication of plant pests

(a) Authority of Secretary of Agriculture

The Secretary of Agriculture, either independently or in cooperation with States or political subdivisions thereof, farmers' associations and similar organizations, and individuals, is authorized to carry out operations or measures to detect, eradicate, suppress, control, or to prevent or retard the spread of plant pests.

(b) Intergovernmental cooperation

The Secretary of Agriculture is further authorized to cooperate with the governments of all countries of the Western Hemisphere, or the local authorities thereof, and with international organizations or associations, in carrying out necessary surveys and control operations in those countries in connection with the detection, eradication, suppression, control, and prevention or retardation of the spread of plant pests.

(c) Cooperating foreign agency

In performing the operations or measures herein authorized, the cooperating foreign country, State, or local agency shall be responsible for the authority necessary to carry out the operations or measures on all lands and properties within the foreign country or State other than those owned or controlled by the Federal Government and for such other facilities and means as in the discretion of the Secretary of Agriculture are necessary.

(d) Definitions

As used in this section—

(1) "plant pest" means any living stage of any insects, mites, nematodes, slugs, snails, protozoa, or other invertebrate animals, bacteria, fungi, other parasitic plants or reproductive parts thereof, viruses, or any organisms similar to or allied with any of the foregoing, or any infectious substances, which can directly or indirectly injure or cause disease or damage in any plants or parts thereof, or any processed, manufactured, or other products of plants;

(2) "living stage" includes the egg, pupal, and larval stages as well as any other living stage; and

(3) "State" includes the District of Columbia and the territories and possessions of the United States.

(e) Rules and regulations

The Secretary of Agriculture is authorized to promulgate such rules and regulations and use such means as he may deem necessary to provide for the inspection of plants and plant products offered for export or transiting the United States and to certify to shippers and interested parties as to the freedom of such products from plant pests according to the phytosanitary requirements of the foreign countries to which such products may be exported, or to the freedom from exposure to plant pests while in transit through the United States.

(f) Authorization of appropriations

There are hereby authorized to be appropriated such sums as the Congress may annually determine to be necessary to enable the Secretary of Agriculture to carry out the provisions of this section. Unless otherwise specifically authorized, or provided for in appropriations, no part of such sums shall be used to pay the cost or value of property injured or destroyed.

(Sept. 21, 1944, ch. 412, title I, § 102, 58 Stat. 735; June 17, 1949, ch. 220, 63 Stat. 200; May 23, 1957, Pub. L. 85-36, title II, § 201, 71 Stat. 35; Mar. 15, 1976, Pub. L. 94-231, § 1, 90 Stat. 215.)

AMENDMENTS

1976—Subsecs. (a) to (d). Pub. L. 94-231 redesignated as subsecs. (a) to (d) the existing provisions of subsec. (a) and broadened Secretary's authority to control and eradicate plant pests and animal diseases, extended Secretary's authority to cooperate with foreign governments, and added definitions for "plant pest" and "living stage". Former subsecs. (b) and (c) redesignated as (e) and (f), respectively.

Subsec. (e). Pub. L. 94-231 redesignated subsec. (b) as (e) and in subsec. (e) as so redesignated made discretionary the Secretary's authority to provide phytosanitary inspection and certification service for domestic plants and plant products offered for export or transit in the United States.

Subsec. (f). Pub. L. 94-231 redesignated subsec. (c) as (f) and in subsec. (f) as so redesignated substituted provisions authorizing appropriations on a Congressional finding of necessity made "annually" for provisions authorizing appropriations on a Congressional finding of necessity made "from time to time".

1957—Subsec. (a). Pub. L. 85-36 added after the phrase "or to prevent or retard the spread of" the words "insect pests, plant diseases, and nematodes, such as imported fire ant, soybean cyst nematode, witchweed, spotted alfalfa aphid,".

1949—Subsec. (a). Act June 17, 1949, authorized the Secretary to carry out operations to combat the citrus blackfly, white-fringed beetle, and the Hall scale.

CONTINUATION OF PROVISIONS

Pub. L. 85-36, title I, § 111, May 23, 1957, 71 Stat. 35, provided in part that: "All Acts amended or repealed hereby [this section and sections 141 to 144, 149, and 441 of this title] shall be deemed to continue in full force and effect for the purpose of sustaining any action or other proceeding with respect to any right that accrued, liability that was incurred, or violation that occurred prior to the effective date of this Act [May 23, 1957]. Nothing contained in this Act [which enacted chapter 7B of this title, amended this section, and section 149 of this title, and repealed sections 141 to 144, and 441 of this title] shall affect the validity of any findings, regulations, or other orders, permits, or certificates, which were issued under any of the Acts cited in this section [sections 141 to 144, and 441 of this title] prior to the effective date of this Act [May 23, 1957] and which are in effect on said date, but such findings, regulations, other orders, permits, and certificates shall remain in effect unless and until modified in accordance with this Act [which enacted chapter 7B of this title, amended this section and section 149 of this title, and repealed sections 141 to 144, and 441 of this title]."

For disposition of remainder of section 111, see note set out under section 150ii of this title.

CROSS REFERENCES

Cooperation with State agencies in administration and enforcement of laws relating to marketing of agricultural products and control or eradication of plant and animal diseases and pests; assistance of State agencies to Secretary of Agriculture; coordination of administration of Federal and State laws; Federal administrative jurisdiction and other provisions respecting cooperation unaffected, see section 450 of this title.

§ 148. Control of insect pests and plant diseases

The Secretary of Agriculture, in cooperation with authorities of the States concerned, organizations, or individuals, is authorized and directed to apply such methods for the control of incipient or emergency outbreaks of insect pests or plant diseases, including grasshoppers, Mormon crickets, and chinch bugs as may be necessary. The Secretary of Agriculture is further authorized to cooperate with the Governments of Canada or Mexico or local Canadian or Mexican authorities in carrying out in such countries necessary operations or measures to control incipient or emergency outbreaks of insect pests or plant diseases, when such operations or measures are necessary to protect the agriculture of the United States. In performing the operations or measures authorized under sections 148, 148a, and 148c to 148e of this title, the cooperating foreign country, State, or local agency shall be responsible for the authority necessary to carry out the operations or measures on all lands and properties within the foreign country or State other than those owned or controlled by the Federal Government and for such other facilities and means as in the discretion of the Secretary of Agriculture are necessary.

(Apr. 6, 1937, ch. 69, 50 Stat. 57; May 9, 1938, ch. 192, 52 Stat. 344; Aug. 13, 1954, ch. 731, 68 Stat. 717.)

AMENDMENTS

1954—Act Aug. 13, 1954, extended provisions to include cooperation with the Governments of Canada or Mexico or local Canadian or Mexican authorities.

1938—Act May 9, 1938, incorporated part of the introductory clause of the original section in the first sentence and eliminated the remainder of such section consisting of the other parts of the introductory clause relating to personnel and appropriations (now covered in sections 148a and 148e of this title), the appropriation provisions of the second clause (now covered in section 148e of this title), provisions of the first proviso relating to general administration, field work, etc. (now covered in section 148a of this title) and provisions of the second proviso restricting the uses of appropriations (now covered in section 148d of this title).

CROSS REFERENCES

Authorization of appropriation, see section 148e of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 148c, 148e of this title; title 41 section 6b.

§ 148a. Availability of appropriated money for general administration; personnel; field work, etc.

Any sums which may be appropriated for such purpose shall be available for expenditure for the employment of persons and means in the District of Columbia and elsewhere, printing, rent outside the District of Columbia, general administration and supervision, surveys, and the purchase, transportation, and application of poison bait or materials and equipment for control of insect pests or plant diseases, including grasshoppers, Mormon crickets, and chinch bugs, and for the preparation of such poison bait or materials for application, and such other expenses as may be necessary.

(Apr. 6, 1937, ch. 69, § 2, as added May 9, 1938, ch. 192, 52 Stat. 344.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 148, 148c, 148e of this title; title 41 section 6b.

§ 148b. Repealed. Oct. 10, 1940, ch. 851, § 4, 54 Stat 1111

Section, act Apr. 6, 1937, ch. 69, § 3, as added May 9, 1938, ch. 192, 52 Stat. 344, relating to procurement of materials and equipment for the control of insect pests and plant diseases, is now covered by section 6b (a) of Title 41, Public Contracts.

§ 148c. Control of insect pests and plant diseases; cooperation of States

In the discretion of the Secretary of Agriculture, no part of any sums appropriated to carry out the purposes of sections 148, 148a, and 148c to 148e of this title shall be expended for the control of incipient or emergency outbreaks of insect pests or plant diseases in any State until the State concerned has provided the organization or materials and supplies necessary for cooperation with the Federal Government.

(Apr. 6, 1937, ch. 69, § 4, as added May 9, 1938, ch. 192, 52 Stat. 344.)

CROSS REFERENCES

Cooperation with State agencies in administration and enforcement of laws relating to marketing of agricultural products and control or eradication of plant and animal diseases and pests; assistance of State agencies to Secretary of Agriculture; coordination of administration of Federal and State laws; Federal administrative jurisdiction and other provisions respecting cooperation unaffected, see section 450 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 148, 148e of this title; title 41 section 6b.

§ 148d. Restrictions on appropriations

No part of the sums hereinafter authorized to be appropriated shall be used to pay the cost or value of farm animals, farm crops, or other property injured or destroyed.

(Apr. 6, 1937, ch. 69, § 5, as added May 9, 1938, ch. 192, 52 Stat. 344.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 148, 148c, 148e of this title; title 41 section 6b.

§ 148e. Authorization of appropriations

There are authorized to be appropriated annually such sums as may be necessary to carry out the provisions of sections 148, 148a, and 148c to 148e of this title.

(Apr. 6, 1937, ch. 69, § 6, as added May 9, 1938, ch. 192, 52 Stat. 344.)

ADDITIONAL APPROPRIATIONS

Additional appropriations for purposes of this section were made as follows: Act Mar. 2, 1938, ch. 39, § 1, 52 Stat. 83—$2,000,000; Joint Res. June 13, 1939, ch. 207, 53 Stat. 821—$1,750,000.

SECTION REFERRED TO IN OTHERSECTIONS

This section is referred to in sections 148, 148c of this title; title 41 section 6b.

§ 149. Regulation, cleaning, etc., of vehicles and materials entering from Mexico; administration by Secretary; fees

To prevent the introduction of insect pests and plant diseases the Secretary of Agriculture is authorized and directed to promulgate such rules and regulations as he may deem necessary to regulate the entry into the United States from Mexico of railway cars and other vehicles and freight, express, baggage, and other materials which may carry such pests and to provide for the inspection, cleaning, and, when necessary, disinfection of such vehicles and materials; to carry out the activities required to accomplish this purpose, the Secretary of Agriculture shall use such means as he may deem necessary, including construction and repair of buildings, plants, and equipment for fumigation and disinfection or cleaning of vehicles and materials; the cleaning and disinfection of vehicles or materials necessary to accomplish the purpose shall be carried out by or under the direction of authorized inspectors of the Department of Agriculture, and the Secretary of Agriculture shall make and collect such charge as will cover, as nearly as may be, the average cost of materials, facilities, and special labor used in performing such disinfection, and fees so collected shall be covered into the Treasury of the United States as miscellaneous receipts.

(Jan. 31, 1942, ch. 31, 56 Stat. 40; May 23, 1957, Pub. L. 85-36, title I, § 110, 71 Stat. 34.)

AMENDMENTS

1957—Pub. L. 85-36 substituted "or" for "and" preceding the words "under the direction of authorized inspectors".

TRANSFER OF FUNCTIONS

All functions of all officers, agencies and employees of the Department of Agriculture were transferred, with certain exceptions, to the Secretary of Agriculture by 1953 Reorg. Plan No. 2, § 1, eff. June 4, 1953, 18 F.R. 3219, 67 Stat. 633, set out as a note under section 2201 of this title.

DISPOSITION OF MONEYS

Department of Agriculture Appropriation Acts July 12, 1943, ch. 215, § 1, 57 Stat. 408; June 28, 1944, ch. 296, § 1, 58 Stat. 440, provided that any moneys re-

ceived in payment of charges shall be covered into the Treasury as miscellaneous receipts.

CONTINUATION OF PROVISIONS

Sections amended or repealed by Pub. L. 85-36 to continue in force as to rights, liabilities and violations that occurred before May 23, 1957, and findings, regulations, other orders, permits and certificates issued before May 23, 1957, as remaining in effect until modified, see note set out under section 147a of this title.

CHAPTER 7A—GOLDEN NEMATODE

Sec.

150. Governmental policy for protection of potatoes and tomatoes from golden nematode.
150a. Duty of Secretary of Agriculture.
150b. Inspections; quarantines; restrictions; crop destruction; compensation of growers.
150c. Expenditure of funds; discretion of Secretary.
150d. State legislative action authorizing restrictions on or destruction of crops.
150e. Computation of compensation paid growers; method; finality of determination.
150f. Expenses; employment of personnel; printing and binding; purchase of passenger-carrying vehicles.
150g. Chapter as supplemental legislation.

§ 150. Governmental policy for protection of potatoes and tomatoes from golden nematode

To protect potato and tomato production in the United States from the destructive pest known as the golden nematode which subsists on the roots of potatoes and tomatoes, causes marked reduction in yield, persists in the soil for many years in an inactive state in the absence of preferred hosts, and becomes active and destructive when potatoes or tomatoes are again planted, it is the policy of the Government of the United States, independently or in cooperation with State and local governmental agencies, and other public and private organizations, associations, and individuals, to eradicate, suppress, control, and prevent the spread of, this pest.

(June 15, 1948, ch. 471, § 1, 62 Stat. 442.)

SHORT TITLE

Section 9 of act June 15, 1948, provided that: "This Act [enacting this chapter] may be cited as the 'Golden Nematode Act'."

CROSS REFERENCES

Cooperation with State agencies in administration and enforcement of laws relating to marketing of agricultural products and control or eradication of plant and animal diseases and pests; assistance of State agencies to Secretary of Agriculture; coordination of administration of Federal and State laws; Federal administrative jurisdiction and other provisions respecting cooperation unaffected, see section 450 of this title.

§ 150a. Duty of Secretary of Agriculture

The Secretary of Agriculture either independently or in cooperation with public or private agencies is authorized to carry out operations or measures to eradicate, suppress, control, or prevent the spread of, the golden nematode.

(June 15, 1948, ch. 471, § 2, 62 Stat. 443.)

§ 150b. Inspections; quarantines; restrictions; crop destruction; compensation of growers

The activities contemplated by this chapter include cooperation with States and other agencies in making inspections, applying suppressive measures, enforcing quarantines, enforcing restrictions on the planting of potatoes and tomatoes, destroying potatoes and tomatoes growing in soil found infested or exposed to infestation with the golden nematode, and compensating growers in areas infected, or exposed to infestation, with the golden nematode for not planting potatoes or tomatoes or for losses resulting from destruction for the purposes of this chapter of potatoes or tomatoes.

(June 15, 1948, ch. 471, § 3, 62 Stat. 443.)

§ 150c. Expenditure of funds; discretion of Secretary

In the discretion of the Secretary of Agriculture no part of any sums appropriated to carry out the purposes of this chapter shall be expended with respect to any area infested with the golden nematode or exposed to such infestation until the appropriate cooperating agency or agencies have presented evidence satisfactory to the Secretary of Agriculture that they will provide funds, materials, means, and State and local authority necessary for the cooperating agency or agencies to carry out effectively that part of the cooperative program the Secretary of Agriculture may require from the cooperating agency or agencies.

(June 15, 1948, ch. 471, § 4, 62 Stat. 443.)

§ 150d. State legislative action authorizing restrictions on or destruction of crops

The Secretary of Agriculture shall not undertake any program involving mandatory restrictions on the planting of potatoes or tomatoes, or mandatory destruction of potatoes or tomatoes unless the State concerned shall have enacted legislation authorizing such restrictions or destruction.

(June 15, 1948, ch. 471, § 5, 62 Stat. 443.)

§ 150e. Computation of compensation paid growers; method; finality of determination

The amount of compensation to be paid by the Federal Government and any cooperating agency, and the method of computation thereof, shall be determined by the Secretary of Agriculture or the agent or agents designated by him, in cooperation with the responsible officials of the agency concerned and in a manner to assure that necessary records are preserved to show full compliance with the provisions of this chapter and regulations promulgated in accordance therewith. No payment shall be made to any grower except after compliance in good faith with regulations concerning the golden nematode promulgated by the Secretary of Agriculture and the responsible official of the cooperating agency. The determination by the Secretary of Agriculture, or his authorized agent, of the amount of compensation to be provided by the Federal Government for any grower shall be final.

(June 15, 1948, ch. 471, § 6, 62 Stat. 443.)

§ 150f. Expenses; employment of personnel; printing and binding; purchase of passenger-carrying vehicles

To carry out the purposes of this chapter the Secretary of Agriculture is authorized to incur all necessary expenses, including the employment of persons in the District of Columbia and elsewhere, printing and binding, and the purchase of passenger-carrying vehicles.

(June 15, 1948, ch. 471, § 7, 62 Stat. 443.)

§ 150g. Chapter as supplemental legislation

The provisions of this chapter are intended to supplement, and shall not be construed as limiting or repealing existing legislation.

(June 15, 1948, ch. 471, § 8, 62 Stat. 443.)

CHAPTER 7B—PLANT PESTS

Sec.

150aa. Definitions.
150bb. Movement of pests; permit; permission by Secretary.
150cc. Mailing of pests; opening of mail; exception.
150dd. Emergency measures by Secretary.
(a) Remedial measures or disposal by Secretary.
(b) Ordering treatment or disposal by owner; procedure.
(c) Other adequate action to prevent dissemination.
(d) Compensation of owner for unauthorized disposal.
150ee. Regulations and conditions.
150ff. Inspections and seizures; warrants.
150gg. Penalty.
150hh. Separability of provisions.
150ii. Authority as additional.
150jj. Plant Quarantine Act unaffected.

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in section 2811 of this title; title 18 section 42.

§ 150aa. Definitions

As used in this chapter, except where the context otherwise requires:

(a) "Secretary" means the Secretary of Agriculture of the United States or any other person to whom authority may be delegated to act in his stead.

(b) "Properly identified employee of the Department of Agriculture" means an employee of that Department authorized to enforce the provisions of the Plant Quarantine Act [7 U.S.C. 151 et seq.], and wearing a suitable badge for identification, or otherwise properly identified.

(c) "Plant pest" means any living stage of: Any insects, mites, nematodes, slugs, snails, protozoa, or other invertebrate animals, bacteria, fungi, other parasitic plants or reproductive parts thereof, viruses, or any organisms similar to or allied with any of the foregoing, or any infectious substances, which can directly or indirectly injure or cause disease or damage in any plants or parts thereof, or any processed, manufactured, or other products of plants.

(d) "Living stage" includes the egg, pupal, and larval stages as well as any other living stage.

(e) "United States" means any of the States, Territories, or Districts (including possessions and the District of Columbia) of the United States.

(f) "Interstate" means from one State, Territory, or District (including possessions and the District of Columbia) of the United States into or through any other such State, Territory, or District.

(g) "Move" means ship, deposit for transmission in the mail, otherwise offer for shipment, offer for entry, import, receive for transportation, carry, or otherwise transport, or move, or allow to be moved, by mail or otherwise.

(h) "Plant Quarantine Act" means the Act of August 20, 1912 (37 Stat. 315), as from time to time amended.

(i) "Mexican Border Act" means the Act of January 31, 1942 (56 Stat. 40), as from time to time amended.

(Pub. L. 85-36, title I, § 102, May 23, 1957, 71 Stat. 31.)

REFERENCES IN TEXT

In the original, "this chapter" read "this Act", meaning Pub. L. 85-36. For classification of this Act to the Code, see Tables volume.

The Plant Quarantine Act, referred to in subsecs. (b) and (h), is classified to chapter 8 (§ 151 et seq.) of this title.

The Mexican Border Act, referred to in subsec. (i), is classified to section 149 of this title.

SHORT TITLE

Section 101 of Pub. L. 85-36 provided that: "This title [which enacted this chapter and provisions set out as a note under section 147a of this title, amended section 149 of this title and repealed sections 141 to 144 and 441 of this title] may be cited as the 'Federal Plant Pest Act'."

§ 150bb. Movement of pests; permit; permission by Secretary

(a) No person shall knowingly move any plant pest from a foreign country into or through the United States, or interstate, or knowingly accept delivery of any plant pest moving from any foreign country into or through the United States, or interstate, unless such movement is authorized under general or specific permit from the Secretary and is made in accordance with such conditions as the Secretary may prescribe in the permit and in such regulations as he may promulgate under this section to prevent the dissemination into the United States, or interstate, of plant pests.

(b) The Secretary may refuse to issue a permit for the movement of any plant pest when, in his opinion, such movement would involve a danger of dissemination of such pests. The Secretary may permit the movement of host materials otherwise barred under the Plant Quarantine Act [7 U.S.C. 151 et seq.] when they must necessarily accompany the plant pest to be moved.

(Pub. L. 85-36, title I, § 103, May 23, 1957, 71 Stat. 32.)

REFERENCES IN TEXT

The Plant Quarantine Act, referred to in subsec. (b), is classified to chapter 8 (§ 151 et seq.) of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 150gg of this title.

§ 150cc. Mailing of pests; opening of mail; exception

(a) Any letter, parcel, box, or other package containing any plant pest, whether sealed as letter-rate postal matter or not, is declared to be nonmailable, and will not knowingly be conveyed in the mail or delivered from any post office or by any mail carrier, except when accompanied by a copy of a permit issued under this chapter.

(b) Nothing in this chapter shall authorize any person to open any letter or other sealed matter except in accordance with the postal laws and regulations.

(c) The prohibitions of this chapter shall not apply to any employee of the United States in the performance of his duties in handling mail.

(Pub. L. 85-36, title I, § 104, May 23, 1957, 71 Stat. 32.)

REFERENCES IN TEXT

In the original, "this chapter" read "this Act." See Reference in Text note under section 150aa of this title.

§ 150dd. Emergency measures by Secretary

(a) Remedial measures or disposal by Secretary

Except as provided in subsection (c) of this section, the Secretary may, whenever he deems it necessary as an emergency measure in order to prevent the dissemination of any plant pest new to or not theretofore known to be widely prevalent or distributed within and throughout the United States, seize, quarantine, treat, apply other remedial measures to, destroy, or otherwise dispose of, in such manner as he deems appropriate, any product or article of any character whatsoever, or means of conveyance, which is moving into or through the United States, or interstate, and which he has reason to believe is infested or infected by or contains any such plant pest, or which has moved into the United States, or interstate, and which he has reason to believe was infested or infected by or contained any such plant pest at the time of such movement; and any plant pest, product, article, or means of conveyance which is moving into or through the United States, or interstate, or has moved into the United States, or interstate, in violation of this chapter or any regulation thereunder: *Provided,* That this subsection shall not authorize such action with respect to any product, article, means of conveyance, or plant pest subject, at the time of the proposed action, to disposal under the Plant Quarantine Act [7 U.S.C. 151 et seq.].

(b) Ordering treatment or disposal by owner; procedure

Except as provided in subsection (c) of this section, the Secretary may order the owner of any product, article, means of conveyance, or plant pest subject to disposal under subsection (a) of this section, or his agent, to treat, apply other remedial measures to, destroy, or make other disposal of such product, article, means of conveyance, or plant pest, without cost to the Federal Government and in such manner as the Secretary deems appropriate. The Secretary may apply to the United States district court, or to the United States court of any Territory or possession, for the judicial district in which such person resides or transacts business or in which the product, article, means of conveyance, or plant pest is found, for enforcement of such order by injunction, mandatory or otherwise. Process in any such case may be served in any judicial district wherein the defendant resides or transacts business or may be found, and subpena for witnesses who are required to attend a court in any judicial district in such a case may run into any other judicial district.

(c) Other adequate action to prevent dissemination

No product, article, means of conveyance, or plant pest shall be destroyed, exported, or returned to shipping point of origin, or ordered to be destroyed, exported, or so returned under this section, unless in the opinion of the Secretary there is no less drastic action which would be adequate to prevent the dissemination of plant pests new to or not theretofore known to be widely prevalent or distributed within and throughout the United States.

(d) Compensation of owner for unauthorized disposal

The owner of any product, article, means of conveyance, or plant pest destroyed, or otherwise disposed of by the Secretary under this section, may bring an action against the United States in the United States District Court for the District of Columbia, within one year after such destruction or disposal, and recover just compensation for such destruction or disposal of such product, article, means of conveyance, or plant pest (not including compensation for loss due to delays incident to determining eligibility for movement into or through the United States or for interstate movement) if the owner establishes that neither this section nor the Plant Quarantine Act [7 U.S.C. 151 et seq.] authorized such destruction or disposal. Any judgment rendered in favor of such owner shall be paid out of the money in the Treasury appropriated for plant disease and pest control activities of the Department of Agriculture.

(Pub. L. 85-36, title I, § 105, May 23, 1957, 71 Stat. 32.)

REFERENCES IN TEXT

In the original, "this chapter" read "this Act." See Reference in Text note under section 150aa of this title.

The Plant Quarantine Act, referred to in subsecs. (a) and (d), is classified to chapter 8 (§ 151 et seq.) of this title.

FEDERAL RULES OF CIVIL PROCEDURE

Subpoena, see rule 45, Title 28, Appendix, Judiciary and Judicial Procedure.

§ 150ee. Regulations and conditions

The Secretary may promulgate such regulations requiring inspection of products and articles of any character whatsoever and means of conveyance, specified in the regulations, as a condition of their movement into or through the United States, or interstate, and imposing other conditions upon such movement, as he deems necessary to prevent the dissemination into the United States, or interstate, of plant pests, in any situation in which such regulations are not authorized under the Plant Quarantine Act [7 U.S.C. 151 et seq.].

(Pub. L. 85-36, title I, § 106, May 23, 1957, 71 Stat. 33.)

REFERENCES IN TEXT

The Plant Quarantine Act, referred to in text, is classified to chapter 8 (§ 151 et seq.) of this title.

§ 150ff. Inspections and seizures; warrants

Any properly identified employee of the Department of Agriculture shall have authority to stop and inspect, without a warrant, any persons or means of conveyance moving into the United States, and any plant pests and any products and articles of any character whatsoever carried thereby, to determine whether such persons or means of conveyance are carrying any plant pest contrary to this chapter and whether any such means of conveyance, products, or articles are infested or infected by or contain any plant pest or are moving in violation of any regulation under this chapter; to stop and inspect, without a warrant, any persons or means of conveyance moving interstate, and any plant pests and any products and articles of any character whatsoever carried thereby, upon probable cause to believe that such means of conveyance, products, or articles are infested or infected by or contain any plant pest or are moving subject to any regulation under this chapter, or that such persons or means of conveyance are carrying any plant pest subject to this chapter; and to enter, with a warrant, any premises in the United States, other than places which may be entered under section 167 of this title, to make any inspections and seizures necessary under this chapter. Any judge of the United States or of a court of record of any State, Territory or possession, or a United States magistrate, may, within his respective jurisdiction, upon proper oath or affirmation showing probable cause to believe that there are on certain premises any products, articles, means of conveyance, or plant pests regulated or subject to disposal under this chapter, issue warrants for the entry of such premises to make any inspections or seizures under this chapter. Such warrants may be executed by any authorized employee of the Department of Agriculture.

(Pub. L. 85-36, title I, § 107, May 23, 1957, 71 Stat. 34; Pub. L. 90-578, title IV, § 402, Oct. 17, 1968, 82 Stat. 1118.)

REFERENCES IN TEXT

In the original, "this chapter" read "this Act." See Reference in Text note under section 150aa of this title.

CHANGE OF NAME

References to United States commissioners have been changed to United States magistrates pursuant to Pub. L. 90-578, title IV, § 402, Oct. 17, 1968, 82 Stat. 1118, which provided that, within each district, references in previously enacted statutes and previously promulgated rules and regulations to United States commissioners are to be deemed, within such district, references to United States magistrates duly appointed under section 631 of Title 28 as soon as the first United States magistrate assumes office within that district or on Oct. 17, 1971, whichever date is earlier. See Applicable Law note under section 631 of Title 28, Judiciary and Judicial Procedure.

§ 150gg. Penalty

Any person who violates section 150bb of this title, or any regulation promulgated under this chapter, or who forges, counterfeits, or without authority from the Secretary uses, alters, or defaces any permit or other document provided for by this chapter or the regulations thereunder, shall be guilty of a misdemeanor and shall be punished by a fine not exceeding $500, or by imprisonment not exceeding one year, or both.

(Pub. L. 85-36, title I, § 108, May 23, 1957, 71 Stat. 34.)

REFERENCES IN TEXT

In the original, "this chapter" read "this Act." See Reference in Text note under section 150aa of this title.

CROSS REFERENCES

Misdemeanor defined, see section 1 of Title 18, Crimes and Criminal Procedure.

§ 150hh. Separability of provisions

If any provision of this chapter or the application thereof to any person or circumstances is held invalid, the remainder of the chapter and the application of such provision to other persons and circumstances shall not be affected thereby.

(Pub. L. 85-36, title I, § 109, May 23, 1957, 71 Stat. 34.)

REFERENCES IN TEXT

In the original, "this chapter" read "this Act." See Reference in Text note under section 150aa of this title.

§ 150ii. Authority as additional

The authority conferred by this chapter shall be in addition to authority conferred by other statues not specifically repealed hereby.

(Pub. L. 85-36, title I, § 111, May 23, 1957, 71 Stat. 34.)

REFERENCES IN TEXT

In the original, "this chapter" read "this Act." See Reference in Text note under section 150aa of this title.

CODIFICATION

Section constitutes first sentence of section 111 of Pub. L. 85-36. Second sentence of section 111 is classified as section 150jj of this title. Third sentence of section 111 repealed sections 141 to 144, and 441 of this title. Remainder of section 111 is set out as a note under section 147a of this title.

§ 150jj. Plant Quarantine Act unaffected

Nothing in this chapter shall amend or repeal any of the provisions of the Plant Quarantine Act [7 U.S.C. 151 et seq.].

(Pub. L. 85-36, title I, § 111, May 23, 1957, 71 Stat. 35.)

REFERENCES IN TEXT

In the original, "this chapter" read "this Act." See Reference in Text note under section 150aa of this title.

The Plant Quarantine Act, referred to in text, is classified to chapter 8 (§ 151 et seq.) of this title.

CODIFICATION

Section constitutes second sentence of section 111 of Pub. L. 85-36. For disposition of remainder of section

111, see Codification note set out under section 150ii of this title.

CHAPTER 8—NURSERY STOCK AND OTHER PLANTS AND PLANT PRODUCTS

Sec.
151. "Person" defined.
152. "Nursery stock" defined.
153. Liability of principal for act of agent.
154. General restriction on importation of nursery stock; exceptions.
155. Importation for scientific purposes permitted.
156. Notification of arrival at port of entry; forwarding without notification forbidden; inspection before shipment.
157. Marking packages, etc., for entry.
158. Marking packages, etc., for interstate shipment; inspection.
159. Regulations by Secretary restricting importation of plants, etc., other than "nursery stock"; notice and hearing before adoption of regulations.
160. Regulations by Secretary restricting importation from insect-infested locality; hearing and promulgation of regulations; when quarantine effective.
161. Interstate quarantine; shipments or removals from quarantined localities forbidden; regulations by Secretary for shipment, etc., from quarantined localities; notice and hearings; promulgation.
161a. Omitted.
162. Rules and regulations.
163. Violations; forgery, alterations, etc., of certificates; punishment; proof of violations by common carrier.
164. Duty of United States attorneys to prosecute.
164a. Enforcement of quarantine against nursery stock and plant products; search and seizure.
165. Repealed.
165a. Omitted.
166. State terminal inspection; transmission of mailed packages for State inspection; nonmailable matter; punishment for violations; rules and regulations by Postmaster General.
167. Rules governing District of Columbia.

Chapter Referred to in Other Sections

This chapter is referred to in sections 150aa, 150bb, 150dd, 150ee, 150jj, and 2811 of this title.

§ 151. "Person" defined

The word "person" as used in this chapter shall be construed to import both the plural and the singular, as the case demands, and shall include corporations, companies, societies, and associations.

(Aug. 20, 1912, ch. 308, § 11, 37 Stat. 319.)

Codification

Section is comprised of a part of section 11 of act Aug. 20, 1912. Other provisions of section 11 are classified to section 153 of this title.

Effective Date

Section 14 of act Aug. 20, 1912, provided that the act shall become effective Oct. 1, 1912, except as otherwise provided therein.

Short Title

This chapter is popularly known as the "Nursery Stock Quarantine Act" and the "Plant Quarantine Act".

Cross References

Words denoting number, etc., see section 1 of Title 1, General Provisions.

Section Referred to in D.C. Code

This section is referred to in section 6-905 of the District of Columbia Code.

§ 152. "Nursery stock" defined

For the purpose of this chapter the term "nursery stock" shall include all field-grown florists' stock, trees, shrubs, vines, cuttings, grafts, scions, buds, fruit pits, and other seeds of fruit and ornamental trees or shrubs, and other plants and plant products for propagation, except field, vegetable, and flower seeds, bedding plants, and other herbaceous plants, bulbs, and roots.

(Aug. 20, 1912, ch. 308, § 6, 37 Stat. 317.)

Cross References

Proof of violations by common carrier, see section 163 of this title.
Regulations restricting importation of plants, etc., other than nursery stock, see section 159 of this title.

Section Referred to in Other Sections

This section is referred to in sections 159, 163 of this title.

Section Referred to in D.C. Code

This section is referred to in section 6-905 of the District of Columbia Code.

§ 153. Liability of principal for act of agent

When construing and enforcing the provisions of this chapter, the act, omission, or failure of any officer, agent, or other person acting for or employed by any corporation, company, society, or association, within the scope of his employment or office, shall in every case be also deemed to be the act, omission, or failure of such corporation, company, society, or association as well as that of the person.

(Aug. 20, 1912, ch. 308, § 11, 37 Stat. 319.)

Codification

Section is composed of part of section 11 of act Aug. 20, 1912. Other provisions of section 11 are classified to section 151 of this title.

Section Referred to in D.C. Code

This section is referred to in section 6-905 of the District of Columbia Code.

§ 154. General restriction on importation of nursery stock; exceptions

It shall be unlawful for any person to import or offer for entry into the United States any nursery stock unless and until a permit shall have been issued therefor by the Secretary of Agriculture, under such conditions and regulations as the said Secretary of Agriculture may prescribe, and unless such nursery stock shall be accompanied by a certificate of inspection, in manner and form as required by the Secretary of Agriculture, of the proper official of the country from which the importation is made, to the effect that the stock has been thoroughly inspected and is believed to be free from injurious plant diseases and insect pests: *Provided,* That the Secretary of Agriculture shall issue the permit for any particular importation of nursery stock when the conditions and regulations as prescribed in this chapter shall have been complied with: *Provided further,* That

nursery stock may be imported for experimental or scientific purposes by the Department of Agriculture upon such conditions and under such regulations as the said Secretary of Agriculture may prescribe: *And provided further,* That nursery stock imported from countries where no official system of inspection for such stock is maintained may be admitted upon such conditions and under such regulations as the Secretary of Agriculture may prescribe: *And provided further,* That the Secretary of Agriculture is authorized to limit entry of nursery stock from foreign countries under such rules and regulations as he may deem necessary, including the requirement, if necessary, that such nursery stock be grown under postentry quarantine by or under the supervision of the United States Department of Agriculture for the purpose of determining whether imported nursery stock may be infested or infected with plant pests not discernible by port-of-entry inspection and provided that if imported nursery stock is found to be infested or infected with such plant pests, he is authorized to prescribe remedial measures as he may deem necessary to prevent the spread thereof.

(Aug. 20, 1912, ch. 308, § 1, 37 Stat. 315; July 31, 1947, ch. 405, 61 Stat. 680.)

AMENDMENTS

1947—Act July 31, 1947, added last proviso.

TRANSFER OF FUNCTIONS

All functions of all officers, agencies and employees of the Department of Agriculture were transferred, with certain exceptions, to the Secretary of Agriculture by 1953 Reorg. Plan No. 2, § 1, eff. June 4, 1953, 18 F.R. 3219, 67 Stat. 633, set out as a note under section 2201 of this title.

CROSS REFERENCES

Plants, etc., other than nursery stock as subject to provisions of this section, see section 159 of this title.
Proof of violations by common carrier, see section 163 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 163 of this title.

SECTION REFERRED TO IN D.C. CODE

This section is referred to in section 6-905 of the District of Columbia Code.

§ 155. Importation for scientific purposes permitted

Any class of nursery stock or of any other class of plants, fruits, vegetables, roots, bulbs, seeds, or other plant products of which the importation may be forbidden from any country or locality under the provisions of section 160 of this title may be imported for experimental or scientific purposes by the Department of Agriculture upon such conditions and under such regulations as the said Secretary of Agriculture may prescribe.

(Mar. 4, 1913, ch. 145, 37 Stat. 854.)

CODIFICATION

Section is derived from a proviso in the Agricultural Appropriation Act, 1914, and was not enacted as a part of the "Plant Quarantine Act" which comprises this chapter.

TRANSFER OF FUNCTIONS

All functions of all officers, agencies and employees of the Department of Agriculture were transferred, with certain exceptions, to the Secretary of Agriculture by 1953 Reorg. Plan No. 2, § 1, eff. June 4, 1953, 18 F.R. 3219, 67 Stat. 633, set out as a note under section 2201 of this title.

§ 156. Notification of arrival at port of entry; forwarding without notification forbidden; inspection before shipment

It shall be the duty of the Secretary of the Treasury promptly to notify the Secretary of Agriculture of the arrival of any nursery stock at port of entry. The person receiving such stock at port of entry shall, immediately upon entry and before such stock is delivered for shipment or removed from the port of entry, advise the Secretary of Agriculture or, at his direction, the proper State, Territorial, or District official of the State or Territory or the District to which such nursery stock is destined, or both, as the Secretary of Agriculture may elect, of the name and address of the consignee, the nature and quantity of the stock it is proposed to ship, and the country and locality where the same was grown. No person shall ship or offer for shipment from one State or Territory or District of the United States into any other State or Territory or District, any nursery stock imported into the United States without notifying the Secretary of Agriculture or, at his direction, the proper State, Territorial, or District official of the State or Territory or District to which such nursery stock is destined, or both, as the Secretary of Agriculture may elect, immediately upon the delivery of the said stock for shipment, of the name and address of the consignee, of the nature and quantity of stock it is proposed to ship, and the country and locality where the same was grown, unless and until such imported stock has been inspected by the proper official of a State, Territory, or District of the United States.

(Aug. 20, 1912, ch. 308, § 2, 37 Stat. 316.)

CROSS REFERENCES

Plants, etc., other than nursery stock as subject to provisions of this section, see section 159 of this title.
Proof of violations by common carrier, see section 163 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 163 of this title.

SECTION REFERRED TO IN D.C. CODE

This section is referred to in section 6-905 of the District of Columbia Code.

§ 157. Marking packages, etc., for entry

No person shall import or offer for entry into the United States any nursery stock unless the case, box, package, crate, bale, or bundle thereof shall be plainly and correctly marked to show the general nature and quantity of the contents, the country and locality where the same was grown, the name and address of the shipper, owner, or person shipping or forwarding the same, and the name and address of the consignee.

(Aug. 20, 1912, ch. 308, § 3, 37 Stat. 316.)

CROSS REFERENCES

Plants, etc., other than nursery stock as subject to provisions of this section, see section 159 of this title.

Prohibition against mailing packages into a state maintaining terminal inspection without marking the contents on the outside, see section 166 of this title.

Proof of violations by common carrier, see section 163 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 163 of this title.

SECTION REFERRED TO IN D.C. CODE

This section is referred to in section 6-905 of the District of Columbia Code.

§ 158. Marking packages, etc., for interstate shipment; inspection

No person shall ship or deliver for shipment from one State or Territory or District of the United States into any other State or Territory or District any such imported nursery stock the case, box, package, crate, bale, or bundle whereof is not plainly marked so as to show the general nature and quantity of the contents, the name and address of the consignee, and the country and locality where such stock was grown unless and until such imported stock has been inspected by the proper official of a State, Territory, or District of the United States.

(Aug. 20, 1912, ch. 308, § 4, 37 Stat. 316.)

CROSS REFERENCES

Plants, etc., other than nursery stock as subject to provisions of this section, see section 159 of this title.

Prohibition against mailing packages into a State maintaining terminal inspection without marking the contents on the outside, see section 166 of this title.

Proof of violations by common carrier, see section 163 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 163 of this title.

SECTION REFERRED TO IN D.C. CODE

This section is referred to in section 6-905 of the District of Columbia Code.

§ 159. Regulations by Secretary restricting importation of plants, etc.; other than "nursery stock"; notice and hearing before adoption of regulations

Whenever the Secretary of Agriculture shall determine that the unrestricted importation of any plants, fruits, vegetables, roots, bulbs, seeds, or other plant products not included by the term "nursery stock" as defined in section 152 of this title may result in the entry into the United States or any of its Territories or Districts of injurious plant diseases or insect pests he shall promulgate his determination, specifying the class of plants and plant products the importation of which shall be restricted and the country and locality where they are grown, and thereafter, and until such promulgation is withdrawn, such plants and plant products imported or offered for import into the United States or any of its Territories or Districts shall be subject to all the provisions of sections 154 and 156 to 158 of this title: *Provided*, That before the Secretary of Agriculture shall promulgate his determination that the unrestricted importation of any plants, fruits, vegetables, roots, bulbs, seeds, or other plant products not included by the term "nursery stock" as defined in section 152 of this title may result in the entry into the United States or any of its Territories or Districts of injurious plant diseases or insect pests he shall, after due notice, give a public hearing, under such rules and regulations as he shall prescribe, at which hearing any interested party may appear and be heard, either in person or by attorney.

(Aug. 20, 1912, ch. 308, § 5, 37 Stat. 316.)

CROSS REFERENCES

Proof of violations by common carrier, see section 163 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 163 of this title.

SECTION REFERRED TO IN D.C. CODE

This section is referred to in section 6-905 of the District of Columbia Code.

§ 160. Regulations by Secretary restricting importation from insect-infested locality; hearing and promulgation of regulations; when quarantine effective

Whenever, in order to prevent the introduction into the United States of any tree, plant, or fruit disease or of any injurious insect, new to or not theretofore widely prevalent or distributed within and throughout the United States, the Secretary of Agriculture shall determine that it is necessary to forbid the importation into the United States of any class of nursery stock or of any other class of plants, fruits, vegetables, roots, bulbs, seeds, or other plant products from a country or locality where such disease or insect infestation exists, he shall promulgate such determination, specifying the country and locality and the class of nursery stock or other class of plants, fruits, vegetables, roots, bulbs, seeds, or other plant products which, in his opinion, should be excluded. Following the promulgation of such determination by the Secretary of Agriculture, and until the withdrawal of the said promulgation by him, the importation of the class of nursery stock or of other class of plants, fruits, vegetables, roots, bulbs, seeds, or other plant products specified in the said promulgation from the country and locality therein named, regardless of the use for which the same is intended, is hereby prohibited; and until the withdrawal of the said promulgation by the Secretary of Agriculture, and notwithstanding that such class of nursery stock, or other class of plants, fruits, vegetables, roots, bulbs, seeds, or other plant products be accompanied by a certificate of inspection from the country of importation, no person shall import or offer for entry into the United States from any country or locality specified in such promulgation, any of the class of nursery stock or of other class of plants, fruits, vegetables, roots, bulbs, seeds, or other plant products named therein, regardless of the use for which the same is intended: *Provided*, That before the Secretary of Agriculture shall promulgate his determination that it is necessary to forbid the importation into the United States of the articles named in this section he shall, after due notice to interested parties, give a public hearing, under such rules and regulations as he

shall prescribe, at which hearing any interested party may appear and be heard, either in person or by attorney: *Provided further,* That the quarantine provisions of this section, as applying to the white-pine blister rust, potato wart, and the Mediterranean fruit fly, shall become and be effective on August 20, 1912.

(Aug. 20, 1912, ch. 308, § 7, 37 Stat. 317.)

EFFECTIVE DATE

Section effective Oct. 1, 1912, see note set out under section 151 of this title.

CROSS REFERENCES

Importation for scientific purposes permitted, see section 155 of this title.

Proof of violations by common carrier, see section 163 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 155, 163 of this title.

SECTION REFERRED TO IN D.C. CODE

This section is referred to in section 6-905 of the District of Columbia Code.

§ 161. Interstate quarantine; shipments or removals from quarantined localities forbidden; regulations by Secretary for shipment, etc., from quarantined localities; notice and hearings; promulgation

The Secretary of Agriculture is authorized and directed to quarantine any State, Territory, or District of the United States, or any portion thereof, when he shall determine that such quarantine is necessary to prevent the spread of a dangerous plant disease or insect infestation, new to or not theretofore widely prevalent or distributed within and throughout the United States; and the Secretary of Agriculture is directed to give notice of the establishment of such quarantine to common carriers doing business in or through such quarantined area, and shall publish in such newspapers in the quarantined area as he shall select notice of the establishment of quarantine. No person shall ship or offer for shipment to any common carrier nor shall any common carrier receive for transportation or transport, nor shall any person carry or transport from any quarantined State or Territory or District of the United States, or from any quarantined portion thereof, into or through any other State or Territory or District, any class of nursery stock or any other class of plants, fruits, vegetables, roots, bulbs, seeds, or other plant products, or any class of stone or quarry products, or any other article of any character whatsoever, capable of carrying any dangerous plant disease or insect infestation, specified in the notice of quarantine except as hereinafter provided. It shall be unlawful to move, or allow to be moved, any class of nursery stock or any other class of plants, fruits, vegetables, roots, bulbs, seeds, or other plant products, or any class of stone or quarry products or any other article of any character whatsoever, capable of carrying any dangerous plant disease or insect infestation, specified in the notice of quarantine hereinbefore provided, and regardless of the use for which the same is intended, from any quarantined State or Territory or District of the United States or quarantined portion thereof, into or through any other State or Territory or District, in manner or method or under conditions other than those prescribed by the Secretary of Agriculture. It shall be the duty of the Secretary of Agriculture, when the public interests will permit, to make and promulgate rules and regulations which shall permit and govern the inspection, disinfection, certification, and method and manner of delivery and shipment of the class of nursery stock or of any other class of plants, fruits, vegetables, roots, bulbs, seeds, or other plant products, or any class of stone or quarry products, or any other article of any character whatsoever, capable of carrying any dangerous plant disease or insect infestation, specified in the notice of quarantine hereinbefore provided, and regardless of the use for which the same is intended, from a quarantined State or Territory or District of the United States, or quarantined portion thereof, into or through any other State or Territory or District; and the Secretary of Agriculture shall give notice of such rules and regulations as hereinbefore provided in this section for the notice of the establishment of quarantine: *Provided,* That before the Secretary of Agriculture shall promulgate his determination that it is necessary to quarantine any State, Territory, or District of the United States, or portion thereof, under the authority given in this section, he shall, after due notice to interested parties, give a public hearing under such rules and regulations as he shall prescribe, at which hearing any interested party may appear and be heard, either in person or by attorney: *Provided further,* That until the Secretary of Agriculture shall have made a determination that such a quarantine is necessary and has duly established the same with reference to any dangerous plant disease or insect infestation, as hereinabove provided, nothing in this chapter shall be construed to prevent any State, Territory, Insular Possession, or District from promulgating, enacting, and enforcing any quarantine, prohibiting or restricting the transportation of any class of nursery stock, plant, fruit, seed, or other product or article subject to the restrictions of this section, into or through such State, Territory, District, or portion thereof, from any other State, Territory, District, or portion thereof, when it shall be found, by the State, Territory, or District promulgating or enacting the same, that such dangerous plant disease or insect infestation exists in such other State, Territory, District, or portion thereof: *Provided further,* That the Secretary of Agriculture is authorized, whenever he deems such action advisable and necessary to carry out the purposes of this chapter, to cooperate with any State, Territory, or District, in connection with any quarantine, enacted or promulgated by such State, Territory, or District, as specified in the preceding proviso: *Provided further,* That any nursery stock, plant, fruit, seed, or other product or article, subject to the restrictions of this section, a quarantine with respect to which shall have been established by the Secretary of Agriculture under the provisions of this chapter shall, when transported to, into, or through any State, Territory, or District, in violation of such quarantine, be subject to the operation

and effect of the laws of such State, Territory, or District, enacted in the exercise of its police powers, to the same extent and in the same manner as though such nursery stock, plant, fruit, seed, or other product or article had been produced in such State, Territory, or District, and shall not be exempt therefrom by reason of being introduced therein in original packages or otherwise.

(Aug. 20, 1912, ch. 308, § 8, 37 Stat. 318; Mar. 4, 1917, ch. 179, 39 Stat. 1165; Apr. 13, 1926, ch. 135, 44 Stat. 250.)

AMENDMENTS

1926—Act Apr. 13, 1926, added last three provisos.

1917—Act Mar. 4, 1917, struck out in the first sentence after the words "when he shall determine," the words "the fact that," and inserted in lieu thereof the words "that such quarantine is necessary to prevent the spread of"; inserted after the words "seeds, or other plant products," where those words occur the first, second, and third times in the section, the words "or any class of stone or quarry products, or any other article of any character whatsoever, capable of carrying any dangerous plant disease or insect infection"; and inserted, after the words "That it shall be the duty of the Secretary of Agriculture," the words "when the public interests will permit".

TRANSFER OF FUNCTIONS

All functions of all officers, agencies and employees of the Department of Agriculture were transferred, with certain exceptions, to the Secretary of Agriculture by 1953 Reorg. Plan No. 2, § 1, eff. June 4, 1953, 18 F.R. 3219, 67 Stat. 633, set out as a note under section 2201 of this title.

CROSS REFERENCES

Proof of violations by common carrier, see section 163 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 163 of this title.

SECTION REFERRED TO IN D.C. CODE

This section is referred to in section 6-905 of the District of Columbia Code.

§ 161a. Omitted

CODIFICATION

Section was from the Department of Agriculture Appropriation Act, 1945, act June 28, 1944, ch. 296, § 1, 58 Stat. 440, related to disposition of moneys from inspection and certification of domestic plants and plant products for export, and was not repeated in subsequent appropriation acts.

SIMILAR PROVISIONS

Similar provisions were contained in prior appropriation acts as follows:
July 12, 1943, ch. 215, § 1, 57 Stat. 408.
July 22, 1942, ch. 516, § 1, 56 Stat. 686.

§ 162. Rules and regulations

The Secretary of Agriculture shall make and promulgate such rules and regulations as may be necessary for carrying out the purposes of this chapter.

(Aug. 20, 1912, ch. 308, § 9, 37 Stat. 318.)

CROSS REFERENCES

Proof of violations by common carrier, see section 163 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 163 of this title.

SECTION REFERRED TO IN D.C. CODE

This section is referred to in section 6-905 of the District of Columbia Code.

§ 163. Violations; forgery, alterations, etc., of certificates; punishment; proof of violations by common carrier

Any person who shall violate any of the provisions of this chapter, or who shall forge, counterfeit, alter, deface, or destroy any certificate provided for in this chapter or in the regulations of the Secretary of Agriculture, shall be deemed guilty of a misdemeanor and shall, upon conviction thereof, be punished by a fine not exceeding $500 or by imprisonment not exceeding one year, or both such fine and imprisonment, in the discretion of the court: *Provided,* That no common carrier shall be deemed to have violated the provisions of sections 152, 154, 156 to 161, and 162 of this title on proof that such carrier did not knowingly receive for transportation or transport nursery stock or other plants or plant products as such from one State, Territory, or District of the United States into or through any other State, Territory, or District.

(Aug. 20, 1912, ch. 308, § 10, 37 Stat. 318.)

CODIFICATION

Section is composed of part of section 10 of act Aug. 20, 1912. Other provisions of section 10 are classified to sections 164 and 164a of this title.

CROSS REFERENCES

District of Columbia, violation of rules and regulations, see section 167 of this title.

Misdemeanor defined, see section 1 of Title 18, Crimes and Criminal Procedure.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 167 of this title.

SECTION REFERRED TO IN D.C. CODE

This section is referred to in section 6-905 of the District of Columbia Code.

§ 164. Duty of United States attorneys to prosecute

It shall be the duty of the United States attorneys diligently to prosecute any violations of this chapter which are brought to their attention by the Secretary of Agriculture or which come to their notice by other means.

(Aug. 20, 1912, ch. 308, § 10, 37 Stat. 318.)

CODIFICATION

Section is composed of part of section 10 of act Aug. 20, 1912. Other provisions of section 10 are classified to sections 163 and 164a of this title.

SECTION REFERRED TO IN D.C. CODE

This section is referred to in section 6-905 of the District of Columbia Code.

§ 164a. Enforcement of quarantine against nursery stock and plant products; search and seizure

Any employee of the Department of Agriculture authorized by the Secretary of Agriculture to enforce the provisions of this chapter and furnished with and wearing a suitable badge for

identification, who has probable cause to believe that any person coming into the United States, or any vehicle, receptacle, boat, ship, or vessel, coming from any country or countries or moving interstate, possesses, carries, or contains any nursery stock, plants, plant products, or other articles the entry or movement of which in interstate or foreign commerce is prohibited or restricted by the provisions of this chapter, or by any quarantine or order of the Secretary of Agriculture issued or promulgated pursuant thereto, shall have power to stop and, without warrant, to inspect, search, and examine such person, vehicle, receptacle, boat, ship, or vessel, and to seize, destroy, or otherwise dispose of, such nursery stock, plants, plant products, or other articles found to be moving or to have been moved in interstate commerce or to have been brought into the United States in violation of this chapter, or of such quarantine or order.

(Aug. 20, 1912, ch. 308, § 10, as added May 1, 1928, ch. 462, 45 Stat. 468.)

CODIFICATION

Section is composed of part of section 10 of act Aug. 20, 1912. Other provisions of section 10 are classified to sections 163 and 164 of this title.

TRANSFER OF FUNCTIONS

All functions of all officers, agencies and employees of the Department of Agriculture were transferred, with certain exceptions, to the Secretary of Agriculture by 1953 Reorg. Plan No. 2, § 1, eff. June 4, 1953, 18 F.R. 3219, 67 Stat. 633, set out as a note under section 2201 of this title.

SECTION REFERRED TO IN D.C. CODE

This section is referred to in section 6–905 of the District of Columbia Code.

§ 165. Repealed. Pub. L. 88–448, title IV, § 402(a)(13), Aug. 19, 1964, 78 Stat. 493

Section, act Aug. 20, 1912, ch. 308, § 12, 37 Stat. 319, related to the appointment of members of a Federal Horticultural Board from among employees of the Department of Agriculture.

EFFECTIVE DATE OF REPEAL

Section repealed effective on the first day of the first month which begins later than the ninetieth day following Aug. 19, 1964, see section 403 of Pub. L. 88–448.

§ 165a. Omitted

CODIFICATION

Section, act May 16, 1928, ch. 572, 45 Stat. 565, provided that the functions of the Federal Horticultural Board should devolve upon and be exercised by the Plant Quarantine and Control Administration. Said act also created an Advisory Federal Plant Quarantine Board which was abolished by act Mar. 3, 1933, ch. 203, 47 Stat. 1463. Appropriations to enable the Secretary of Agriculture to carry into effect the provisions of this chapter, which in prior appropriation acts had been made to the Plant Quarantine and Control Administration, were made to the Bureau of Plant Quarantine by the appropriation act of July 7, 1932, ch. 443, 47 Stat. 640, and to the Bureau of Entomology and Plant Quarantine by the appropriation act of Mar. 26, 1934, ch. 89, 48 Stat. 486, and subsequent appropriation acts.

§ 166. State terminal inspection; transmission of mailed packages for State inspection; nonmailable matter; punishment for violations; rules and regulations by Postmaster General

When any State shall provide for terminal inspection of plants and plant products, and shall establish and maintain, at the sole expense of the State, such inspection at one or more places therein, the proper officials of said State may submit to the Secretary of Agriculture a list of plants and plant products and the plant pests transmitted thereby, that in the opinion of said officials should be subject to terminal inspection in order to prevent the introduction or dissemination in said State of pests injurious to agriculture. Upon his approval of said list, in whole or in part, the Secretary of Agriculture shall transmit the same to the Postmaster General, and thereafter all packages containing any plants or plant products named in said approved lists shall, upon payment of postage therefor, be forwarded by the postmaster at the destination of said package to the proper State official at the nearest place where inspection is maintained. If the plants or plant products (including seed) are found upon inspection to be free from injurious pests and not in violation of a plant-quarantine law or plant-quarantine regulation of the United States Department of Agriculture or of the State of destination pertaining to such injurious pests, or if infected shall be disinfected by said official, they shall upon payment of postage therefor be returned to the postmaster at the place of inspection to be forward [1] to the person to whom they are addressed; but if found to be infected with injurious pests and incapable of satisfactory disinfection or in violation of a plant-quarantine law or plant-quarantine regulation of the United States Department of Agriculture or of the State of destination pertaining to such injurious pests, the State inspector shall so notify the postmaster at the place of inspection who shall promptly notify the sender of said plants or plant products that they will be returned to him upon his request and at his expense, or in default of such request that they will be turned over to the State authorities for destruction.

It shall be unlawful for any person, firm, or corporation to deposit in the United States mails any package containing any plant or plant product addressed to any place within a State maintaining inspection thereof, as herein defined, without plainly marking the package so that its contents may be readily ascertained by an inspection of the outside thereof. Whoever shall fail to so mark said packages shall be punished by a fine of not more than $100.

The Postmaster General is authorized and directed to make all needful rules and regulations for carrying out the purposes hereof.

(Mar. 4, 1915, ch. 144, 38 Stat. 1113; June 4, 1936, ch. 495, 49 Stat. 1461.)

CODIFICATION

Section was derived from provisions of the Agricultural Appropriation Act, 1916, and was not enacted as a part of the "Plant Quarantine Act" which comprises this chapter.

[1] So in original.

AMENDMENTS

1936—Act June 4, 1936 amended the last sentence of the first par. by changing the introductory word "plant" to "plants", inserting "(including seed)", "and not in violation of a plant-quarantine law or plant-quarantine regulation of the United States Department of Agriculture or of the State of destination pertaining to such injurious pests", "or in violation of a plant-quarantine law or plant-quarantine regulation of the United States Department of Agriculture or of the State of destination pertaining to such injurious pests," and deleting the comma following "place of inspection."

SHORT TITLE

This section is popularly known as the "Terminal Inspection Act."

TRANSFER OF FUNCTIONS

All functions of all officers, agencies and employees of the Department of Agriculture were transferred, with certain exceptions, to the Secretary of Agriculture by 1953 Reorg. Plan No. 2, § 1, eff. June 4, 1953, 18 F.R. 3219, 67 Stat. 633, set out as a note under section 2201 of this title.

CROSS REFERENCES

Misdemeanor defined, see section 1 of Title 18, Crimes and Criminal Procedure.

§ 167. Rules governing District of Columbia

Prohibition against shipment generally.—In order further to control and eradicate and to prevent the dissemination of dangerous plant diseases and insect infections and infestations no plant or plant products for or capable of propagation, including nursery stock, hereinafter referred to as plants and plant products, shall be moved or allowed to be moved, shipped, transported, or carried by any means whatever into or out of the District of Columbia, except in compliance with such rules and regulations as shall be prescribed by the Secretary of Agriculture as hereinafter provided.

Eradication by owner.—Whenever the Secretary of Agriculture, after investigation, shall determine that any plants and plant products in the District of Columbia are infested or infected with insect pests and diseases and that any place, articles, and substances used or connected therewith are so infested or infected, written notice thereof shall be given by him to the owner or person in possession or control thereof, and such owner or person shall forthwith control or eradicate and prevent the dissemination of such insect pest or disease and shall remove, cut, or destroy such infested and infected plants, plant products, and articles and substances used or connected therewith, which are declared to be nuisances, within the time and in the manner required in said notice or by the rules and regulations of the Secretary of Agriculture.

Eradication by Secretary of Agriculture.—Whenever such owner or person cannot be found, or shall fail, neglect, or refuse to comply with the foregoing provisions of this section, the Secretary of Agriculture is authorized and required to control and eradicate and prevent dissemination of such insect pest or disease and to remove, cut, or destroy infested or infected plants and plant products and articles and substances used or connected therewith, and the United States shall have an action of debt against such owner or persons for expenses incurred by the Secretary of Agriculture in that behalf.

Inspection.—Employees of the Bureau of Entomology and Plant Quarantine are authorized and required to inspect places, plants, and plant products and articles and substances used or connected therewith whenever the Secretary of Agriculture shall determine that such inspections are necessary for the purposes of this section.

Entry upon premises; opening packages; destruction of plants, etc.—For the purpose of carrying out the provisions and requirements of this section and of the rules and regulations of the Secretary of Agriculture made hereunder, and the notices given pursuant thereto, employees of the Bureau of Entomology and Plant Quarantine shall have power with a warrant to enter into or upon any place and open any bundle, package, or other container of plants or plant products whenever they shall have cause to believe that infections or infestations of plant pests and diseases exist therein or thereon, and when such infections or infestations are found to exist, after notice by the Secretary of Agriculture to the owner or person in possession or control thereof and an opportunity by said owner or person to be heard, to destroy the infected or infested plants or plant products contained therein.

Search warrants.—The Superior Court of the District of Columbia shall have power, upon information supported by oath or affirmation showing probable cause for believing that there exists in any place, bundle, package, or other container in the District of Columbia any plant or plant product which is infected or infested with plant pests or disease, to issue warrants for the search for and seizure of all such plants and plant products.

Rules and regulations.—It shall be the duty of the Secretary of Agriculture, and he is required, from time to time, to make and promulgate such rules and regulations as shall be necessary to carry out the purposes of this section, and any person who shall move or allow to be moved, or shall ship, transport, or carry, by any means whatever, any plant or plant products from or into the District of Columbia, except in compliance with the rules and regulations prescribed under this section, shall be punished, as is provided in section 163 of this title.

(Aug. 20, 1912, ch. 308, § 15, as added May 31, 1920, ch. 217, 41 Stat. 726, and amended May 16, 1928, ch. 572, 45 Stat. 565; July 7, 1932, ch. 443, 47 Stat. 640; Mar. 26, 1934, ch. 89, 48 Stat. 486; July 29, 1970, Pub. L. 91-358, title I, § 155(a), 84 Stat. 570.)

CODIFICATION

Section is also set out in D.C. Code, § 6-904.

CHANGE OF NAME

In the penultimate paragraph "Superior Court of the District of Columbia" was substituted for "District of Columbia Court of General Sessions" on authority of Pub. L. 91-358, title I, § 155(a), July 29, 1970, 84 Stat. 570.

"District of Columbia Court of General Sessions" was the designation given to the "Municipal Court for the District of Columbia" by Pub. L. 88-60, §§ 1, 7, July 8, 1963, 77 Stat. 77, 78, which provided that, eff. Jan. 1,

1963, whenever reference is made in any Act of Congress to the "Municipal Court for the District of Columbia", such reference shall be held to be a reference to the "District of Columbia Court of General Sessions."

The Police Court of the District of Columbia and the Municipal Court of the District of Columbia were consolidated into a single court known as "The Municipal Court for the District of Columbia" and the powers and jurisdiction of such courts were transferred thereto by act Apr. 1, 1942, ch. 207, §§ 1, 4, 56 Stat. 190, 192.

TRANSFER OF FUNCTIONS

All functions of all officers, agencies and employees of the Department of Agriculture were transferred, with certain exceptions, to the Secretary of Agriculture by 1953 Reorg. Plan No. 2, § 1, eff. June 4, 1953, 18 F.R. 3219, 67 Stat. 633, set out as a note under section 2201 of this title.

Functions of the Bureau of Entomology and Plant Quarantine were transferred to the Secretary of Agriculture by 1947 Reorg. Plan No. 1, § 301, eff. July 1, 1947, 12 F.R. 4534, 61 Stat. 952, set out in the Appendix to Title 5, Government Organization and Employees.

"Bureau of Entomology and Plant Quarantine" was substituted for "Federal Horticultural Board" by acts May 16, 1928, July 7, 1932, and Mar. 26, 1934. See note under former section 165a of this title.

FEDERAL RULES OF CIVIL PROCEDURE

One form of action, see rule 2, Title 28, Appendix, Judiciary and Judicial Procedure.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 150ff of this title.

CHAPTER 8A—RUBBER

Sec.

171. Program for development of guayule and other rubber-bearing plants.
172. Authorization of Secretary to appoint employees; delegation of powers; cooperation with other agencies; allotment of funds; leases of facilities and disposal of water.
173. Authorization of appropriations.
174. Omitted.
175. Lease or sublease of unsuitable lands; disposal of water supply.
176. Sale of guayule shrub to Reconstruction Finance Corporation.

§ 171. Program for development of guayule and other rubber-bearing plants

The Secretary of Agriculture (hereinafter called the "Secretary") is authorized—

(1) To acquire by purchase, license, or other agreement, the right to operate under processes or patents relating to the growing and harvesting of guayule or the extraction of rubber therefrom, and such properties, processes, records, and data as are necessary to such operation, including but not limited to any such rights owned or controlled by the Intercontinental Rubber Company, or any of its subsidiaries, and all equipment, materials, structures, factories, real property, seed, seedlings, growing shrub, and other facilities, patents and processes of the Intercontinental Rubber Company, or any of its subsidiaries, located in California, and for such rights, properties, and facilities of the Intercontinental Rubber Company or any of its subsidiaries, the Secretary is authorized to pay not to exceed $2,000,000;

(2) To plant, or contract for the planting of, not in excess of five hundred thousand acres of guayule in areas in the Western Hemisphere where the best growth and yields may be expected in order to maintain a nucelus planting of guayule to serve as a domestic source of crude rubber as well as of planting material for use in further expanding guayule planting to meet emergency needs of the United States for crude rubber; to establish and maintain nurseries to provide seedlings for field plants; and to purchase necessary equipment, facilities, land for nurseries and administrative sites and water rights;

(3) To acquire by lease, or other agreement, for not exceeding ten years, rights to land for the purpose of making plantings of guayule; to acquire water rights; to erect necessary buildings on leased land where suitable land cannot be purchased; to make surveys, directly or through appropriate Government agencies, of areas in the Western Hemisphere where guayule might be grown; and to establish and maintain records indicating areas to which guayule cultivation could be extended for emergency production;

(4) To construct or operate, or to contract for the operation of, factories for the extraction of rubber from guayule, and from Chrysothamnus, commonly known as rabbit brush; to purchase guayule shrub; and to purchase, operate, and maintain equipment for the harvesting, storing, transporting, and complete processing of guayule, and Chrysothamnus, commonly known as rabbit brush, and to purchase land as sites for processing plants;

(5) To conduct studies, in which he may cooperate with any other public or private agency, designed to increase the yield of guayule by breeding to by selection, and to improve planting methods; to make surveys of areas suitable for cultivating guayule; to make experimental plantings; and to conduct agronomic tests;

(6) To conduct tests, in which he may cooperate with any other public or private agency, to determine the qualities of rubber obtained from guayule and to determine the most favorable methods of compounding and using guayule in rubber manufacturing processes;

(7) To improve methods of processing guayule shrubs and rubber and to obtain and hold patents on such new processes;

(8) To sell guayule or rubber processed from guayule and to use funds so obtained in replanting and maintaining an area not in excess of five hundred thousand acres of guayule inside the Western Hemipshere; and

(9) To exercise with respect to rubber-bearing plants other than guayule the same powers as are granted in the foregoing provisions of this section with respect to guayule.

(Mar. 5, 1942, ch. 140, § 1, 56 Stat. 126; Oct. 30, 1942, ch. 617, §§ 1–4, 56 Stat. 796, 797.)

AMENDMENTS

1942—Subdiv. (2). Act Oct. 20, 1942, § 1, increased acreage from 75,000 to 500,000 and inserted reference to land for administrative sites and water rights.

Subdiv. (3). Act Oct. 20, 1942, § 2, inserted "to acquire water rights; to erect necessary buildings on leased land where suitable land cannot be purchased;".

Subdiv. (4). Act Oct. 20, 1942, § 3, inserted "to purchase guayule shrub;".

Subdiv. (8). Act Oct. 20, 1942, § 4, substituted "not in excess of five hundred" for "of seventy-five".

ADDITIONAL ACREAGE AUTHORIZED

Act Oct. 26, 1942, ch. 629, title II, § 201, 56 Stat. 1002, provided in part as follows: "The Secretary of Agriculture, in connection with the appropriations herein and heretofore made for such project, is authorized to plant, or contract for the planting of, not to exceed twenty-five thousand acres of guayule in areas in the Western Hemisphere in addition to the acreage permitted under the provisions of paragraph (1), section 1 of the act of March 5, 1942 (Public Law 473) [subdiv. (1) of this section.]"

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 172, 173, 175 of this title.

§ 172. Authorization of Secretary to appoint employees; delegation of powers; cooperation with other agencies; allotment of funds; leases of facilities and disposal of water

(a) The Secretary is authorized to appoint such employees, including citizens of other countries, as may be necessary for carrying out the provisions of sections 171 to 173 of this title. Such appointments may be made without regard to the provisions of the civil-service laws. Sections 321, 322, 324, and 325a of title 40 shall not apply to any nursery, planting, cultivating or harvesting operations conducted pursuant to sections 171 to 173 of this title. All appointments so made by the Secretary shall be made only on the basis of merit and efficiency.

(b) The Secretary may delegate any of the powers and duties conferred on him by sections 171 to 173 of this title to any agency or bureau of the Department of Agriculture.

(c) The Secretary, with the consent of any board, commission, independent establishment, corporation, or executive department of the Government, including any field service thereof, may avail himself of the use of information, services, facilities, officers and employees thereof, in carrying out the provisions of sections 171 to 173 of this title.

(d) The Secretary may allot to bureaus and offices of the Department of Agriculture, or may transfer to such other agencies of the State and Federal Governments as may be requested by him to assist in carrying out sections 171 to 173 of this title, any funds made available to him under said sections.

(e) In carrying out the provisions of sections 171 to 173 of this title the Secretary shall have all of the authority conferred upon him by section 502 of title 16.

(f) The Secretary may lease at reasonable rentals structures erected by the Government with essential facilities for such periods as such structures and facilities are not required for the purposes of sections 171 to 173 of this title; and any part of land or structures with essential facilities acquired by lease, deed, or other agreement pursuant to said sections, which are not required or suitable for the purposes of said sections during the period the United States is entitled to possession thereof may be leased or subleased at a reasonable rental; and any surplus water controlled by the United States on land owned or leased by the United States for the purposes of said sections may be disposed of at reasonable rates.

(Mar. 5, 1942, ch. 140, § 2, 56 Stat. 127; Oct. 20, 1942, ch. 617, §§ 5–7, 56 Stat. 797.)

REFERENCES IN TEXT

The civil service laws, referred to in subsec. (a), are set forth in Title 5, Government Organization and Employees. See, particularly, section 3301 et seq. of that title.

Sections 321, 322, 324, and 325a of title 40, referred to in subsec. (a), were repealed by Pub. L. 87-581, title II, § 203, Aug. 13, 1962, 76 Stat. 360. See sections 328, 330, and 332 of Title 40, Public Buildings, Property, and Works.

CODIFICATION

In the second sentence of subsec. (a), the words "and the compensation of the persons so appointed may be fixed without regard to the provisions of the Classification Act of 1923, as amended" were omitted as obsolete. Sections 1202 and 1204 of the Classification Act of 1949, 63 Stat. 972, 973 repealed the 1923 Act and all laws or parts of laws inconsistent with the 1949 Act. While section 1106(a) of the 1949 Act provided that references in other laws to the 1923 Act should be held and considered to mean the 1949 Act, it did not have the effect of continuing the exceptions contained in this subsection because of setion 1106(b) which provided that the application of the 1949 Act of any position, officer, or employee shall not be affected by section 1106(a). The Classification Act of 1949 was repealed by Act Sept. 6, 1966, Pub. L. 89-554, § 8(a), 80 Stat. 632 (of which section 1 revised and enacted Title 5, U.S.C., into law). Section 5102 of Title 5, now contains the applicability provisions of the 1949 Act, and section 5103 of Title 5 authorizes the Civil Service Commission to determine the applicability to specific positions and employees.

AMENDMENTS

1942—Subsec. (a). Act Oct. 20, 1942, §§ 5, 7, substituted "other countries" for "countries in the Western Hemisphere" and inserted the sentence immediately following "as amended".

Subsecs. (e) and (f). Act Oct. 20, 1942, § 6, added subsecs. (e) and (f).

TRANSFER OF FUNCTIONS

All functions of all officers, agencies and employees of the Department of Agriculture were transferred, with certain exceptions, to the Secretary of Agriculture by 1953 Reorg. Plan No. 2, § 1, eff. June 4, 1953, 18 F.R. 3219, 67 Stat. 633, set out as a note under section 2201 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 173, 175 of this title.

§ 173. Authorization of appropriations

There are authorized to be appropriated such amounts as may be necessary to carry out the provisions of sections 171 to 173 of this title. Any amounts so appropriated, and any funds received by the Secretary under said sections, shall remain permanently available for the purposes of said sections without regard to the provisions of any other laws relating to the availability and disposition of appropriated funds and the disposition of funds collected by officers or agencies of the United States.

(Mar. 5, 1942, ch. 140, § 3, 56 Stat. 128.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 172, 175 of this title.

§ 174. Omitted

CODIFICATION

Section was from the Department of Agriculture Apropriation Act, 1946, act July 5, 1945, ch. 271, title I, § 201, 59 Stat. 423, provided for the disposition of proceeds from the sale of guayule and other rubber-bearing plants, and was not repeated in subsequent appropriation acts.

SIMILAR PROVISIONS

Similar provisions were contained in prior appropriation acts as follows:
May 5, 1945, ch. 109, § 1, 59 Stat. 152.
June 28, 1944, ch. 296, § 1, 58 Stat. 447.
July 12, 1943, ch. 215, § 1, 57 Stat. 415.
July 2, 1942, ch. 476, title I, § 101, 56 Stat. 597.
Apr. 28, 1942, ch. 247, title III, § 301, 56 Stat. 240.

§ 175. Lease or sublease of unsuitable lands; disposal of water supply

Subject to conditions prescribed by the Secretary of Agriculture, any part of the land acquired by lease, deed, or other agreement pursuant to sections 171 to 173 of this title, which is not required or suitable for the purposes of said sections may be leased or subleased at a reasonable rental during the period the United States is entitled to possession thereof; and any surplus water supplies controlled by the United States on such land may be disposed of at reasonable rates.

(July 2, 1942, ch. 476, title I, § 1, 56 Stat. 597.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 172, 173 of this title.

§ 176. Sale of guayule shrub to Reconstruction Finance Corporation

Guayule shrub may be sold to the Reconstruction Finance Corporation at a price reflecting the net realization from the sale of the rubber recovered from such shrub in mills operated by said Corporation after deducting the cost of milling and amortization of the cost of mills constructed for the purpose by said Corporation.

(June 30, 1945, ch. 215, § 1, 59 Stat. 310; July 5, 1945, ch. 271, title I, 59 Stat. 423.)

TRANSFER OF FUNCTIONS

The Rubber Reserve Company was dissolved and its functions transferred to the Reconstruction Finance Corporation by Joint Res. June 30, 1945, eff. July 1, 1945.

ABOLITION OF RECONSTRUCTION FINANCE CORPORATION

Section 6(a) of 1957 Reorg. Plan No. 1, eff. June 30, 1957, 22 F.R. 4633, 71 Stat. 649, set out as a note under section 601 of Title 15, Commerce and Trade, abolished the Reconstruction Finance Corporation.

CHAPTER 9—PACKERS AND STOCKYARDS

SUBCHAPTER I—GENERAL DEFINITIONS

Sec.
181. Short title.
182. "Person"; "Secretary"; "meat food products"; "livestock"; "livestock products"; "commerce"; defined.
183. When transaction deemed in commerce; "State" defined.

SUBCHAPTER II—PACKERS GENERALLY

191. "Packer" defined.
192. Unlawful practices enumerated.
193. Procedure before Secretary for violations; complaint; hearing; intervention; report and order; service of process.
194. Conclusiveness of order; appeal and review; temporary and final injunction.
195. Punishment for violation of order.
196. Statutory trust established.
(a) Protection of public interest from inadequate financing arrangements.
(b) Livestock, inventories, receivables and proceeds held by packer in trust for benefit of unpaid cash sellers; time limitations; exempt packers; effect of dishonored instruments; preservation of trust benefits by seller.
(c) Definition of cash sale.

SUBCHAPTER III—STOCKYARDS AND STOCKYARD DEALERS

201. "Stockyard owner"; "stockyard services"; "market agency"; "dealer"; defined.
202. "Stockyard" defined; determination by Secretary as to particular yard.
203. Activity as stockyard dealer or market agency; benefits to business and welfare of stockyard; registration; penalty for failure to register.
204. Bond and suspension of registrants.
205. General duty as to services; revocation of registration.
206. Rates and charges generally; discrimination.
207. Schedule of rates; filing and exhibition; change in rates; suspension; penalties.
208. Unreasonable or discriminatory practices generally; rights of stockyard owner of management and regulation.
209. Liability to individuals for violations; enforcement generally.
210. Proceedings before Secretary for violations generally; action to enforce orders.
211. Order of Secretary as to charges or practices; prescribing rates and practices generally.
212. Prescribing rates and practices to prevent discrimination between intrastate and interstate commerce.
213. Prevention of unfair, discriminatory, or deceptive practices.
214. Effective date of orders.
215. Failure to obey orders; punishment.
216. Proceedings to enforce orders; injunction.
217. Proceedings for suspension of orders.
217a. Brand inspection fees by registered market agencies.

SUBCHAPTER IV—LIVE POULTRY DEALERS AND HANDLERS

218. Unfair, deceptive, and fraudulent practices; necessity to curb.
218a. Designation of cities and markets where unfair practices exist; licenses required; application for and issuance by Secretary; penalty for dealing without license.
218b. "Live poultry dealer" defined.
218c. Application of other provisions of chapter to subchapter.
218d. Suspension and revocation of licenses.

SUBCHAPTER V—GENERAL PROVISIONS

221. Accounts and records of business; punishment for failure to keep.
222. Federal Trade Commission powers adopted for enforcement of chapter.
223. Responsibility of principal for act or omission of agent.
224. Attorney General to institute court proceedings for enforcement.
225. Laws unaffected.

Sec.
226. Powers of Interstate Commerce Commission unaffected.
227. Powers of Federal Trade Commission and Secretary of Agriculture; reports.
228. Authority of Secretary.
(a) Rules, regulations, and expenditures; appropriations.
(b) Separate enforcement unit within Department.
(c) Deductions from proceeds for financing promotional, educational, and research activities.
(d) Budget estimate; testimony of Secretary before Congressional committees.
(e) Development and promulgation of rules governing hearings.
(f) Definitions.
228a. Authority of Secretary to request temporary injunction or restraining order.
228b. Prompt payment for purchase of livestock.
(a) Full amount of purchase price required; methods of payment.
(b) Waiver of prompt payment by written agreement; disclosure requirements.
(c) Delay in payment or attempt to delay deemed unfair practice.
228c. Federal preemption of State and local requirements.
229. Separability of provisions

SUBCHAPTER VI—CHARGE FOR INSPECTION
231. Omitted.

TRANSFER OF FUNCTIONS

Functions of the Bureau of Animal Industry were transferred to the Secretary of Agriculture by 1947 Reorg. Plan No. 1, § 301, eff. July 1, 1947, 12 F.R. 4534, 61 Stat 952. See note set out under section 391 of this title.

By order of the Secretary of Agriculture, the Packers and Stockyards Administration was abolished on July 1, 1927, and the enforcement of the Packers and Stockyards Act of 1921, which is classified to this chapter, was put under the control of the chief of the Bureau of Animal Industry.

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in title 15 sections 45, 1607, 1681s, 1691c; title 28 section 2342.

SUBCHAPTER I—GENERAL DEFINITIONS

§ 181. Short title

This chapter may be cited as the "Packers and Stockyards Act, 1921."

(Aug. 15, 1921, ch. 64, § 1, 42 Stat. 159.)

§ 182. "Person"; "Secretary"; "meat food products"; "livestock"; "livestock products"; "commerce"; defined

When used in this chapter—

(1) The term "person" includes individuals, partnerships, corporations, and associations;

(2) The term "Secretary" means the Secretary of Agriculture;

(3) The term "meat food products" means all products and byproducts of the slaughtering and meat-packing industry—if edible;

(4) The term "livestock" means cattle, sheep, swine, horses, mules, or goats—whether live or dead;

(5) The term "livestock products" means all products and byproducts (other than meats and meat food products) of the slaughtering and meat-packing industry derived in whole or in part from livestock; and

(6) The term "commerce" means commerce between any State, Territory, or possession, or the District of Columbia, and any place outside thereof; or between points within the same State, Territory, or possession, or the District of Columbia, but through any place outside thereof; or within any Territory or possession, or the District of Columbia.

(Aug. 15, 1921, ch. 64, § 2(a), 42 Stat. 159; Sept. 13, 1976, Pub. L. 94-410 § 3(c), 90 Stat. 1249.)

CODIFICATION

Section is composed of subsec. (a) of section 2 of act Aug. 15, 1921. Subsec. (b) of section 2 is classified to section 183 of this title.

AMENDMENTS

1976—Pars. (4), (5). Pub. L. 94-410, § 3(c), substituted "livestock" for "live stock" in par. (4) and for "livestock" in par. (5).

SAVINGS PROVISION

Section 10 of Pub. L. 94-410 provided that: "Pending proceedings shall not be abated by reason of any provision of this Act [enacting sections 196 and 228a to 228c of this title and amending sections 182, 183, 191-193, 201, 204, 207, 209, 210, 212, 213, 228, and 229 of this title], but shall be disposed of pursuant to the provisions of the Packers and Stockyards Act, 1921, as amended [this chapter], and the Act of July 12, 1943 [section 204 of this title], in effect immediately prior to the effective date of this Act [Sept. 13, 1976]."

CROSS REFERENCES

Dealer, see section 201 of this title.
Definition of commerce as not limited by definition of transaction in commerce, see section 183 of this title.
Live poultry dealer, see section 218b of this title.
Market agency, see section 201 of this title.
Packer, see section 191 of this title.
Stockyard, see section 202 of this title.
Stockyard owner, see section 201 of this title.
Stockyard services, see section 201 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 183 of this title.

§ 183. When transaction deemed in commerce; "State" defined

For the purpose of this chapter (but not in anywise limiting the definition in section 182 of this title) a transaction in respect to any article shall be considered to be in commerce if such article is part of that current of commerce usual in the livestock and meat-packing industries, whereby livestock, meats, meat food products, livestock products, dairy products, poultry, poultry products, or eggs, are sent from one State with the expectation that they will end their transit, after purchase, in another, including, in addition to cases within the above general description, all cases where purchase or sale is either for shipment to another State, or for slaughter of livestock within the State and the shipment outside the State of the products resulting from such slaughter. Articles normally in such current of commerce shall not be considered out of such current through resort being had to any means or device intended to remove transactions in respect thereto from the provisions of this chapter. For the purpose of this section the word "State" includes Terri-

tory, the District of Columbia, possession of the United States, and foreign nation.

(Aug. 15, 1921, ch. 64, § 2(b), 42 Stat. 159; Sept. 13, 1976, Pub. L. 94-410, § 3(c), 90 Stat. 1249.)

CODIFICATION

Section is composed of subsec. (b) of section 2 of act Aug. 15, 1921. Subsec. (a) of section 2 is classified to section 182 of this title.

AMENDMENTS

1976—Pub. L. 94-410 substituted "livestock" for "live stock" and "live-stock" wherever appearing.

SUBCHAPTER II—PACKERS GENERALLY

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 204, 228 of this title.

§ 191. "Packer" defined

When used in this chapter the term "packer" means any person engaged in the business (a) of buying livestock in commerce for purposes of slaughter, or (b) of manufacturing or preparing meats or meat food products for sale or shipment in commerce, or (c) of marketing meats, meat food products, or livestock products in an unmanufactured form acting as a wholesale broker, dealer, or distributor in commerce.

(Aug. 15, 1921, ch. 64, § 201, 42 Stat. 160; Sept. 13, 1976, Pub. L. 94-410, § 2, 90 Stat. 1249.)

AMENDMENTS

1976—Pub. L. 94-410 substituted definition of term "packer" for former definition which included provisions dealing with direct or indirect control of specified businesses through stock ownership or otherwise.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 218a of this title.

§ 192. Unlawful practices enumerated

It shall be unlawful with respect to livestock, meats, meat food products, livestock products in unmanufactured form, poultry, or poultry products for any packer or any live poultry dealer or handler to:

(a) Engage in or use any unfair, unjustly discriminatory, or deceptive practice or device; or

(b) Make or give any undue or unreasonable preference or advantage to any particular person or locality in any respect whatsoever, or subject any particular person or locality to any undue or unreasonable prejudice or disadvantage in any respect whatsoever; or

(c) Sell or otherwise transfer to or for any other packer, or any live poultry dealer or handler, or buy or otherwise receive from or for any other packer or any live poultry dealer or handler any article for the purpose or with the effect of apportioning the supply between any such packers, if such apportionment has the tendency or effect of restraining commerce or of creating a monopoly; or

(d) Sell or otherwise transfer to or for any other person, or buy or otherwise receive from or for any other person, any article for the purpose or with the effect of manipulating or controlling prices, or of creating a monopoly in the acquisition of, buying, selling, or dealing in, any article, or of restraining commerce; or

(e) Engage in any course of business or do any act for the purpose or with the effect of manipulating or controlling prices, or of creating a monopoly in the acquisition of, buying, selling, or dealing in, any article, or of restraining commerce; or

(f) Conspire, combine, agree, or arrange with any other person (1) to apportion territory for carrying on business, or (2) to apportion purchases or sales of any article, or (3) to manipulate or control prices; or

(g) Conspire, combine, agree, or arrange with any other person to do, or aid or abet the doing of, any act made unlawful by subdivisions (a), (b), (c), (d), or (e) of this section.

(Aug. 15, 1921, ch. 64, § 202, 42 Stat. 161; Aug. 15, 1921, ch. 64, § 503, as added Aug. 14, 1935, ch. 532, 49 Stat. 649; Sept. 2, 1958, Pub. L. 85-909, § 1(1), 72 Stat. 1749; Sept. 13, 1976, Pub. L. 94-410, § 3(a), 90 Stat. 1249.)

CODIFICATION

Act Aug. 15, 1921, § 503, as added Aug. 14, 1935, added the words "or any live poultry dealer or handler" after the word "packer" wherever it occurs.

AMENDMENTS

1976—Pub. L. 94-410 struck out "in commerce" wherever appearing.

1958—Opening provision amended by Pub. L. 85-909 to insert after "unlawful" the words "with respect to livestock, meats, meat food products, livestock products in unmanufactured form, poultry, or poultry products".

§ 193. Procedure before Secretary for violations; complaint; hearing; intervention; report and order; service of process

(a) Whenever the Secretary has reason to believe that any packer has violated or is violating any provision of this subchapter, he shall cause a complaint in writing to be served upon the packer, stating his charges in that respect, and requiring the packer to attend and testify at a hearing at a time and place designated therein, at least thirty days after the service of such complaint; and at such time and place there shall be afforded the packer a reasonable opportunity to be informed as to the evidence introduced against him (including the right of cross-examination), and to be heard in person or by counsel and through witnesses, under such regulations as the Secretary may prescribe. Any person for good cause shown may on application be allowed by the Secretary to intervene in such proceeding, and appear in person or by counsel. At any time prior to the close of the hearing the Secretary may amend the complaint; but in case of any amendment adding new charges the hearing shall, on the request of the packer, be adjourned for a period not exceeding fifteen days.

(b) If, after such hearing, the Secretary finds that the packer has violated or is violating any provisions of this subchapter covered by the charges, he shall make a report in writing in which he shall state his findings as to the facts, and shall issue and cause to be served on the packer an order requiring such packer to cease and desist from continuing such violation. The testimony taken at the hearing shall be reduced

to writing and filed in the records of the Department of Agriculture. The Secretary may also assess a civil penalty of not more than $10,000 for each such violation. In determining the amount of the civil penalty to be assessed under this section, the Secretary shall consider the gravity of the offense, the size of the business involved, and the effect of the penalty on the person's ability to continue in business. If, after the lapse of the period allowed for appeal or after the affirmance of such penalty, the person against whom the civil penalty is assessed fails to pay such penalty, the Secretary may refer the matter to the Attorney General who may recover such penalty by an action in the appropriate district court of the United States.

(c) Until the record in such hearing has been filed in a court of appeals of the United States, as provided in section 194 of this title, the Secretary at any time, upon such notice and in such manner as he deems proper, but only after reasonable opportunity to the packer to be heard, may amend or set aside the report or order, in whole or in part.

(d) Complaints, orders, and other processes of the Secretary under this section may be served in the same manner as provided in section 45 of title 15.

(Aug. 15, 1921, ch. 64, § 203, 42 Stat. 161; June 25, 1948, ch. 646, § 32(a), 62 Stat. 991; May 24, 1949, ch. 139, § 127, 63 Stat. 107; Aug. 28, 1958, Pub. L. 85-791, § 6(a), 72 Stat. 944; Sept. 13, 1976, Pub. L. 94-410, § 3(b), 90 Stat. 1249.)

AMENDMENTS

1976—Subsec. (b). Pub. L. 94-410 added provisions dealing with authority of Secretary to assess a civil penalty for violations and, upon failure to pay, procedure for recovery of such penalty.

1958—Subsec. (c). Pub. L. 85-791 eliminated "a transcript of" following "until".

CHANGE OF NAME

Act June 25, 1948, as amended by act May 24, 1949, substituted "court of appeals" for "circuit court of appeals".

TRANSFER OF FUNCTIONS

All functions of all officers, agencies and employees of the Department of Agriculture were transferred, with certain exceptions, to the Secretary of Agriculture by 1953 Reorg. Plan No. 2, § 1, eff. June 4, 1953, 18 F.R. 3219, 67 Stat. 633, set out as a note under section 2201 of this title.

CROSS REFERENCES

Enforcement by Secretary of Agriculture under this chapter, with respect to activities subject to this chapter, of requirements imposed under section 1601 et seq. of Title 15, Commerce and Trade, see section 1607 of Title 15.

Enforcement of orders by district courts, see section 2351 of Title 28, Judiciary and Judicial Procedure.

Finality of orders under this section, see section 194 of this title.

Punishment for violation of order, see section 195 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 194, 195, 204 of this title; title 28 section 2351.

§ 194. Conclusiveness of order; appeal and review; temporary and final injunction

(a) An order made under section 193 of this title shall be final and conclusive unless within thirty days after service the packer appeals to the court of appeals for the circuit in which he has his principal place of business, by filing with the clerk of such court a written petition praying that the Secretary's order be set aside or modified in the manner stated in the petition, together with a bond in such sum as the court may determine, conditioned that such packer will pay the costs of the proceedings if the court so directs.

(b) The clerk of the court shall immediately cause a copy of the petition to be delivered to the Secretary, and the Secretary shall thereupon file in the court the record in such proceedings, as provided in section 2112 of title 28. If before such record is filed the Secretary amends or sets aside his report or order, in whole or in part, the petitioner may amend the petition within such time as the court may determine, on notice to the Secretary.

(c) At any time after such petition is filed, the court, on application of the Secretary, may issue a temporary injunction, restraining, to the extent it deems proper, the packer and his officers, directors, agents, and employees, from violating any of the provisions of the order pending the final determination of the appeal.

(d) The evidence so taken or admitted, and filed as aforesaid as a part of the record, shall be considered by the court as the evidence in the case. The proceedings in such cases in the court of appeals shall be made a preferred cause and shall be expedited in every way.

(e) The court may affirm, modify, or set aside the order of the Secretary.

(f) If the court determines that the just and proper disposition of the case requires the taking of additional evidence, the court shall order the hearing to be reopened for the taking of such evidence, in such manner and upon such terms and conditions as the court may deem proper. The Secretary may modify his findings as to the facts, or make new findings, by reason of the additional evidence so taken, and he shall file such modified or new findings and his recommendations, if any, for the modifications or setting aside of his order, with the return of such additional evidence.

(g) If the court of appeals affirms or modifies the order of the Secretary, its decree shall operate as an injunction to restrain the packer, and his officers, directors, agents, and employees from violating the provisions of such order or such order as modified.

(h) The court of appeals shall have jurisdiction, which upon the filing of the record with it shall be exclusive, to review, and to affirm, set aside, or modify, such orders of the Secretary, and the decree of such court shall be final except that it shall be subject to review by the Supreme Court of the United States upon certiorari, as provided in section 1254 of title 28, if such writ is duly applied for within sixty days after entry of the decree. The issue of such writ shall not operate as a stay of the decree of the court of appeals, insofar as such decree operates as an injunction unless so ordered by the Supreme Court.

(Aug. 15, 1921, ch. 64, § 204, 42 Stat. 162; June 7, 1934, ch. 426, 48 Stat. 926; June 25, 1948, ch. 646, § 32(a), 62 Stat. 991; May 24, 1949, ch. 139, § 127, 63 Stat. 107; Aug. 28, 1958, Pub. L. 85-791, § 6(b), (c), 72 Stat. 944.)

CODIFICATION

Former subsec. (i), which extended the former term "circuit court of appeals", in case the principal place of business of the packer is in the District of Columbia, to the United States Court of Appeals for the District of Columbia, for the purposes of sections 191 to 195 of this title, has been omitted from the Code as obsolete. The District of Columbia is now a judicial circuit under sections 41 and 43 of Title 28, Judiciary and Judicial Procedure. See, also, change of name note below.

AMENDMENTS

1958—Subsec. (b). Pub. L. 85-791 § 6(b), substituted "thereupon file in the court" for "forthwith prepare, certify, and file in the court a full and accurate transcript of", and "as provided in section 2112 of Title 28" for "including the complaint, the evidence, and the report and order" in the first sentence, and "record" for "transcript" in the second sentence.

Subsec. (c). Pub. L. 85-791, § 6(b), substituted "petition" for "transcript".

Subsec. (d). Pub. L. 85-791, § 6(b), eliminated "duly certified" following "admitted".

Subsec. (h). Pub. L. 85-791, § 6(c), substituted "jurisdiction, which upon the finding of the record with it shall be exclusive," for "exclusive jurisdiction," and section "1254" for "347".

CHANGE OF NAME

Act June 25, 1948, eff. Sept. 1, 1948, as amended May 24, 1949, substituted "court of appeals" for "circuit court of appeals", wherever appearing in this section.

Act of June 7, 1934, provided that Court of Appeals in District of Columbia, should hereafter be known as the United States Court of Appeals for the District of Columbia.

CROSS REFERENCES

Amending or setting aside report or order affecting packer prior to filing of transcript of record in court of appeals, see section 193 of this title.

Federal meat inspection labeling, marking, and container requirements, provisions of section as applicable to appeals, see section 606 of Title 21, Food and Drugs.

Injunction by courts of appeals restraining orders, see section 2349 of Title 28, Judiciary and Judicial Procedure.

Review of cases in courts of appeals by the Supreme Court, see section 1254 of Title 28.

Review of orders by court of appeals, see section 2341 et seq. of Title 28.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 193, 195 of this title; title 21 sections 457, 467, 607, 1036, 1047.

§ 195. Punishment for violation of order

Any packer, or any officer, director, agent, or employee of a packer, who fails to obey any order of the Secretary issued under the provisions of section 193 of this title, or such order as modified—

(1) After the expiration of the time allowed for filing a petition in the court of appeals to set aside or modify such order, if no such petition has been filed within such time; or

(2) After the expiration of the time allowed for applying for a writ of certiorari, if such order, or such order as modified, has been sustained by the court of appeals and no such writ has been applied for within such time; or

(3) After such order, or such order as modified, has been sustained by the courts as provided in section 194 of this title; shall on conviction be fined not less than $500 nor more than $10,000, or imprisoned for not less than six months nor more than five years, or both. Each day during which such failure continues shall be deemed a separate offense.

(Aug. 15, 1921, ch. 64, § 205, 42 Stat. 163; June 25, 1948, ch. 646, § 32(a), 62 Stat. 991; May 24, 1949, ch. 139, § 127, 63 Stat. 107.)

CHANGE OF NAME

Act June 25, 1948, as amended by act May 24, 1949, substituted "court of appeals" for "circuit court of appeals", wherever appearing in this section.

§ 196. Statutory trust established.

(a) Protection of public interest from inadequate financing arrangements

It is hereby found that a burden on and obstruction to commerce in livestock is caused by financing arrangements under which packers encumber, give lenders security interest in, or place liens on, livestock purchased by packers in cash sales, or on inventories of or receivables or proceeds from meat, meat food products, or livestock products therefrom, when payment is not made for the livestock and that such arrangements are contrary to the public interest. This section is intended to remedy such burden on and obstruction to commerce in livestock and protect the public interest.

(b) Livestock, inventories, receivables and proceeds held by packer in trust for benefit of unpaid cash sellers; time limitations; exempt packers; effect of dishonored instruments; preservation of trust benefits by seller

All livestock purchased by a packer in cash sales, and all inventories of, or receivables or proceeds from meat, meat food products, or livestock products derived therefrom, shall be held by such packer in trust for the benefit of all unpaid cash sellers of such livestock until full payment has been received by such unpaid sellers: *Provided,* That any packer whose average annual purchases do not exceed $500,000 will be exempt from the provisions of this section. Payment shall not be considered to have been made if the seller receives a payment instrument which is dishonored: *Provided,* That the unpaid seller shall lose the benefit of such trust if, in the event that a payment instrument has not been received, within thirty days of the final date for making a payment under section 228b of this title, or within fifteen business days after the seller has received notice that the payment instrument promptly presented for payment has been dishonored, the seller has not preserved his trust under this subsection. The trust shall be preserved by giving written notice to the packer and by filing such notice with the Secretary.

(c) Definition of cash sale

For the purpose of this section, a cash sale means a sale in which the seller does not expressly extend credit to the buyer.

(Aug. 15, 1921, ch. 64, § 206, as added Sept. 13, 1976, Pub. L. 94-410, § 8, 90 Stat. 1251.)

SUBCHAPTER III—STOCKYARDS AND STOCKYARD DEALERS

§ 201. "Stockyard owner"; "stockyard services"; "market agency"; "dealer"; defined

When used in this chapter—

(a) The term "stockyard owner" means any person engaged in the business of conducting or operating a stockyard;

(b) The term "stockyard services" means services or facilities furnished at a stockyard in connection with the receiving, buying, or selling on a commission basis or otherwise, marketing, feeding, watering, holding, delivery, shipment, weighing, or handling in commerce, or livestock;

(c) The term "market agency" means any person engaged in the business of (1) buying or selling in commerce livestock on a commission basis or (2) furnishing stockyard services; and

(d) The term "dealer" means any person, not a market agency, engaged in the business of buying or selling in commerce livestock, either on his own account or as the employee or agent of the vendor or purchaser.

(Aug. 15, 1921, ch. 64, § 301, 42 Stat. 163; Sept. 2, 1958, Pub. L. 85-909, § 2(1), 72 Stat. 1750; Sept. 13, 1976, Pub. L. 94-410, § 3(c), 90 Stat. 1249.)

AMENDMENTS

1976—Subdivs. (b)-(d). Pub. L. 94-410 substituted "livestock" for "live stock".

1958—Subdivs. (c) and (d). Pub. L. 85-909 deleted the words "at a stockyard" following "livestock".

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 203 of this title.

§ 202. "Stockyard" defined; determination by Secretary as to particular yard

(a) When used in this subchapter the term "stockyard" means any place, establishment, or facility commonly known as stockyards, conducted, operated, or managed for profit or nonprofit as a public market for livestock producers, feeders, market agencies, and buyers, consisting of pens, or other inclosures, and their appurtenances, in which live cattle, sheep, swine, horses, mules, or goats are received, held, or kept for sale or shipment in commerce.

(b) The Secretary shall from time to time ascertain, after such inquiry as he deems necessary, the stockyards which come within the foregoing definition, and shall give notice thereof to the stockyard owners concerned, and give public notice thereof by posting copies of such notice in the stockyard, and in such other manner as he may determine. After the giving of such notice to the stockyard owner and to the public, the stockyard shall remain subject to the provisions of this subchapter until like notice is given by the Secretary that such stockyard no longer comes within the foregoing definition.

(Aug. 15, 1921, ch. 64, § 302, 42 Stat. 163; Sept. 2, 1958, Pub. L. 85-909, § 2(2), 72 Stat. 1750; July 31, 1968, Pub. L. 90-446, § 1(a), 82 Stat. 474.)

AMENDMENTS

1968—Subsec. (a). Pub. L. 90-446 substituted "operated, or managed for profit or nonprofit as a public market for livestock producers, feeders, market agencies, and buyers" for "or operated for compensation or profit as a public market".

1958—Subsec. (a). Pub. L. 85-909 deleted the last sentence reading "Said sections shall not apply to a stockyard of which the area normally available for handling livestock, exclusive of runs, alleys, or passage ways, is less than twenty thousand square feet."

TRANSPORTATION OF LIVESTOCK

Section 2(2) of Pub. L. 85-909 provided in part: "That nothing herein [this section] shall be deemed as a definition of the term 'public stockyards' as used in section 15(5) of the Interstate Commerce Act [section 15(5) of Title 49, Transportation]."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 203, 207 of this title.

§ 203. Activity as stockyard dealer or market agency; benefits to business and welfare of stockyard; registration; penalty for failure to register

After the expiration of thirty days after the Secretary has given public notice that any stockyard is within the definition of section 202 of this title, by posting copies of such notice in the stockyard, no person shall carry on the business of a market agency or dealer at such stockyard unless (1) the stockyard owner has determined that his services will be beneficial to the business and welfare of said stockyard, its patrons, and customers, which determination shall be made on a basis which is not unreasonable or unjustly discriminatory, and has given written authorization to such person, and (2) he has registered with the Secretary, under such rules and regulations as the Secretary may prescribe, his name and address, the character of business in which he is engaged, and the kinds of stockyards services, if any, which he furnishes at such stockyard. Every other person operating as a market agency or dealer as defined in section 201 of this title may be required to register in such manner as the Secretary may prescribe. Whoever violates the provisions of this section shall be liable to a penalty of not more than $500 for each such offense and not more than $25 for each day it continues, which shall accrue to the United States and may be recovered in a civil action brought by the United States.

(Aug. 15, 1921, ch. 64, § 303, 42 Stat. 163; Sept. 2, 1958, Pub. L. 85-909, § 2(3), 72 Stat. 1750; July 31, 1968, Pub. L. 90-446, § 1(b), 82 Stat. 474.)

AMENDMENTS

1968—Pub. L. 90-446 designated existing provisions as cl. (2) and added cl. (1).

1958—Pub. L. 85-909 inserted sentence "Every other person operating as a market agency or dealer as defined in section 201 of this title may be required to register in such manner as the Secretary may prescribe."

CROSS REFERENCES

Jurisdiction of district of action for penalty, see section 1355 of Title 28, Judiciary and Judicial Procedure.

FEDERAL RULES OF CIVIL PROCEDURE

One form of action, see rule 2, Title 28, Appendix, Judiciary and Judicial Procedure.

§ 204. Bond and suspension of registrants

On and after July 12, 1943, the Secretary may require reasonable bonds from every market agency (as defined in this subchapter), every packer (as defined in subchapter II of this chapter) in connection with its livestock purchasing operations (except that those packers whose average annual purchases do not exceed $500,000 will be exempt from the provisions of this paragraph), and every other person operating as a dealer (as defined in this subchapter) under such rules and regulations as he may prescribe, to secure the performance of their obligations, and whenever, after due notice and hearing, the Secretary finds any registrant is insolvent or has violated any provisions of this chapter he may issue an order suspending such registrant for a reasonable specified period. Such order of suspension shall take effect within not less than five days, unless suspended or modified or set aside by the Secretary or a court of competent jurisdiction. If the Secretary finds any packer is insolvent, he may after notice and hearing issue an order under the provisions of section 193 of this title requiring such packer to cease and desist from purchasing livestock while insolvent, or while insolvent purchasing livestock except under such conditions as the Secretary may prescribe to effectuate the purposes of this chapter.

(July 12, 1943, ch. 215, § 1, 57 Stat. 422; Sept. 13, 1976, Pub. L. 94-410, §§ 1, 4, 90 Stat. 1249.)

CODIFICATION

Section was derived from the Department of Agriculture Appropriation Act, 1944, act July 12, 1943, and was not enacted as a part of the "Packers and Stockyards Act" which constitutes this chapter.

AMENDMENTS

1976—Pub. L. 94-410, added provisions exempting market agencies and packers whose average annual purchases do not exceed $500,000 from bonding requirement and authorizing Secretary, after notice and hearing, to issue cease and desist orders to insolvent packers prohibiting the purchase of livestock except under conditions prescribed by Secretary, respectively.

SIMILAR PROVISIONS

Section was from the Department of Agriculture Appropriation Act, 1944. Similar provisions were contained in the following prior acts:
July 22, 1942, ch. 516, § 1, 56 Stat. 689.
July 1, 1941, ch. 267, § 1, 55 Stat. 432.
June 25, 1940, ch. 421, § 1, 54 Stat. 557.
June 30, 1939, ch. 253, title I, 53 Stat. 970.
June 16, 1938, ch. 464, title I, 52 Stat. 721.
June 29, 1937, ch. 404, 50 Stat. 406.
June 4, 1936, ch. 489, 49 Stat. 1432.
May 17, 1935, ch. 131, title I, § 1, 49 Stat. 257.
Mar. 26, 1934, ch. 89, 48 Stat. 477.
Mar. 3, 1933, ch. 203, 47 Stat. 1441.
July 7, 1932, ch. 443, 47 Stat. 620.
Feb. 23, 1931, ch. 278, 46 Stat. 1252.
May 27, 1930, ch. 341, 46 Stat. 402.
Feb. 16, 1929, ch. 227, 45 Stat. 1198.
May 16, 1928, ch. 572, 45 Stat. 547.
Jan. 18, 1927, ch. 39, 44 Stat. 1002.
May 11, 1926, ch. 286, 44 Stat. 527.
Feb. 10, 1925, ch. 200, 43 Stat. 851.
June 5, 1924, ch. 266, 43 Stat. 460.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 228c of this title.

§ 205. General duty as to services; revocation of registration

All stockyard services furnished pursuant to reasonable request made to a stockyard owner or market agency at such stockyard shall be reasonable and nondiscriminatory and stockyard services which are furnished shall not be refused on any basis that is unreasonable or unjustly discriminatory: *Provided,* That in any State where the weighing of livestock at a stockyard is conducted by a duly authorized department or agency of the State, the Secretary, upon application of such department or agency, may register it as a market agency for the weighing of livestock received in such stockyard, and upon such registration such department or agency and the members thereof shall be amenable to all the requirements of this chapter, and upon failure of such department or agency or the members thereof to comply with the orders of the Secretary under this chapter he is authorized to revoke the registration of such department or agency and to enforce such revocation as provided in section 216 of this title.

(Aug. 15, 1921, ch. 64, § 304; 42 Stat. 164; May 5, 1926, ch. 240, 44 Stat. 397; July 31, 1968, Pub. L. 90-446, § 1(c), 82 Stat. 474.)

CODIFICATION

Act May 5, 1926, added the proviso.

AMENDMENTS

1968—Pub. L. 90-446 added the provision requiring that stockyard services which are furnished not be refused on any basis that is unreasonable or unjustly discriminatory.

§ 206. Rates and charges generally; discrimination

All rates or charges made for any stockyard services furnished at a stockyard by a stockyard owner or market agency shall be just, reasonable, and nondiscriminatory, and any unjust, unreasonable, or discriminatory rate or charge is prohibited and declared to be unlawful.

(Aug. 15, 1921, ch. 64, § 305, 42 Stat. 164.)

CROSS REFERENCES

Application to certain licensees, see section 218c of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 218c of this title.

§ 207. Schedule of rates; filing and exhibition; change in rates; suspension; penalties

(a) Within sixty days after the Secretary has given public notice that a stockyard is within the definition of section 202 of this title, by posting copies of such notice in the stockyard, the stockyard owner and every market agency at such stockyard shall file with the Secretary, and print and keep open to public inspection at the stockyard, schedules showing all rates and charges for the stockyard services furnished by such person at such stockyard. If a market agency commences business at the stockyard after the expiration of such sixty days such schedules must be filed before any stockyard services are furnished.

(b) Such schedules shall plainly state all such rates and charges in such detail as the Secretary may require, and shall also state any rules or regulations which in any manner change, affect, or determine any part or the aggregate of such rates or charges, or the value of the stockyard services furnished. The Secretary may determine and prescribe the form and manner in which such schedules shall be prepared, arranged, and posted, and may from time to time make such changes in respect thereto as may be found expedient.

(c) No changes shall be made in the rates or charges so filed and published, except after ten days' notice to the Secretary and to the public filed and published as aforesaid, which shall plainly state the changes proposed to be made and the time such changes will go into effect; but the Secretary may, for good cause shown, allow changes on less than ten days' notice, or modify the requirements of this section in respect to publishing, posting, and filing of schedules, either in particular instances or by a general order applicable to special or peculiar circumstances or conditions.

(d) The Secretary may reject and refuse to file any schedule tendered for filing which does not provide and give lawful notice of its effective date, and any schedule so rejected by the Secretary shall be void and its use shall be unlawful.

(e) Whenever there is filed with the Secretary any schedule, stating a new rate or charge, or a new regulation or practice affecting any rate or charge, the Secretary may either upon complaint or upon his own initiative without complaint, at once, and if he so orders without answer or other formal pleading by the person filing such schedule, but upon reasonable notice, enter upon a hearing concerning the lawfulness of such rate, charge, regulation, or practice, and pending such hearing and decision thereon the Secretary, upon filing with such schedule and delivering to the person filing it a statement in writing of his reasons for such suspension, may suspend the operation of such schedule and defer the use of such rate, charge, regulation, or practice, but not for a longer period than thirty days beyond the time when it would otherwise go into effect; and after full hearing, whether completed before or after the rate, charge, regulation, or practice goes into effect, the Secretary may make such order with reference thereto as would be proper in a proceeding initiated after it had become effective. If any such hearing cannot be concluded within the period of suspension the Secretary may extend the time of suspension for a further period not exceeding thirty days, and if the proceeding has not been concluded and an order made at the expiration of such thirty days, the proposed change of rate, charge, regulation, or practice shall go into effect at the end of such period.

(f) After the expiration of the sixty days referred to in subsection (a) of this section, no person shall carry on the business of a stockyard owner or market agency unless the rates and charges for the stockyard services furnished at the stockyard have been filed and published in accordance with this section and the orders of the Secretary made thereunder; nor charge, demand, or collect a greater or less or different compensation for such services than the rates and charges specified in the schedules filed and in effect at the time; nor refund or remit in any manner any portion of the rates or charges so specified (but this shall not prohibit a cooperative association of producers from bona fide returning to its members, on a patronage basis, its excess earnings on their livestock, subject to such regulations as the Secretary may prescribe); nor extend to any person at such stockyard any stockyard services except such as are specified in such schedules.

(g) Whoever fails to comply with the provisions of this section or of any regulation or order of the Secretary made thereunder shall be liable to a penalty of not more than $500 for each such offense, and not more than $25 for each day it continues, which shall accrue to the United States and may be recovered in a civil action brought by the United States.

(h) Whoever willfully fails to comply with the provisions of this section or of any regulation or order of the Secretary made thereunder shall on conviction be fined not more than $1,000, or imprisoned not more than one year, or both.

(Aug. 15, 1921, ch. 64, § 306, 42 Stat. 164; Sept. 13, 1976, Pub. L. 94-410, § 3(c), 90 Stat. 1249.)

AMENDMENTS

1976—Subsec. (f). Pub. L. 94-410 substituted "livestock" for "live stock" following "earnings on their".

CROSS REFERENCES

Application to certain licensees, see section 218c of this title.

Jurisdiction of district court of action for penalty, see section 1355 of Title 28, Judiciary and Judicial Procedure.

Misdemeanor defined, see section 1 of Title 18, Crimes and Criminal Procedure.

FEDERAL RULES OF CIVIL PROCEDURE

One form of action, see rule 2, Title 28, Appendix, Judiciary and Judicial Procedure.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 218c of this title.

§ 208. Unreasonable or discriminatory practices generally; rights of stockyard owner of management and regulation

(a) It shall be the duty of every stockyard owner and market agency to establish, observe, and enforce just, reasonable, and nondiscriminatory regulations and practices in respect to the furnishing of stockyard services, and every unjust, unreasonable, or discriminatory regulation or practice is prohibited and declared to be unlawful.

(b) It shall be the responsibility and right of every stockyard owner to manage and regulate his stockyard in a just, reasonable, and nondiscriminatory manner, to prescribe rules and regulations and to require those persons engaging in or attempting to engage in the purchase, sale, or solicitation of livestock at such stockyard to conduct their operations in a manner which will foster, preserve, or insure an efficient, competitive public market. Such rules and regulations shall not prevent a registered

market agency or dealer from rendering service on other markets or in occasional and incidental off-market transactions.

(Aug. 15, 1921, ch. 64, § 307, 42 Stat. 165; July 31, 1968, Pub. L. 90-446, § 1(d), 82 Stat. 475.)

AMENDMENTS

1968—Pub. L. 90-446 designated existing provisions as subsec. (a) and added subsec. (b).

CROSS REFERENCES

Application to certain licensees, see section 218c of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 218c of this title.

§ 209. Liability to individuals for violations; enforcement generally

(a) If any person subject to this chapter violates any of the provisions of this chapter, or of any order of the Secretary under this chapter, relating to the purchase, sale, or handling of livestock, he shall be liable to the person or persons injured thereby for the full amount of damages sustained in consequence of such violation.

(b) Such liability may be enforced either (1) by complaint to the Secretary as provided in section 210 of this title, or (2) by suit in any district court of the United States of competent jurisdiction; but this section shall not in any way abridge or alter the remedies now existing at common law or by statute, but the provisions of this chapter are in addition to such remedies.

(Aug. 15, 1921, ch. 64, § 308, 42 Stat. 165; Sept. 13, 1976, Pub. L. 94-410, § 6, 90 Stat. 1250.)

AMENDMENTS

1976—Subsec. (a). Pub. L. 94-410 struck out references to violations of specific sections and added packers to categories of regulated persons against whom private action could be brought for violation of chapter.

CROSS REFERENCES

Application to certain licensees, see section 218c of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 218c of this title.

§ 210. Proceedings before Secretary for violations generally; action to enforce orders

(a) Any person complaining of anything done or omitted to be done by any stockyard owner, market agency, or dealer (hereinafter in this section referred to as the "defendant") in violation of the provisions of this subchapter, or of an order of the Secretary made under this subchapter, may, at any time within ninety days after the cause of action accrues, apply to the Secretary by petition which shall briefly state the facts, whereupon the complaint thus made shall be forwarded by the Secretary to the defendant, who shall be called upon to satisfy the complaint, or to answer it in writing, within a reasonable time to be specified by the Secretary. If the defendant within the time specified makes reparation for the injury alleged to be done he shall be relieved of liability to the complainant only for the particular violation thus complained of. If the defendant does not satisfy the complaint within the time specified, or there appears to be any reasonable ground for investigating the complaint, it shall be the duty of the Secretary to investigate the matters complained of in such manner and by such means as he deems proper.

(b) The Secretary, at the request of the livestock commissioner, board of agriculture, or other agency of a State or Territory, having jurisdiction over stockyards in such State or Territory, shall investigate any complaint forwarded by such agency in like manner and with the same authority and powers as in the case of a complaint made under subsection (a) of this section.

(c) The Secretary may at any time institute an inquiry on his own motion, in any case and as to any matter or thing concerning which a complaint is authorized to be made to or before the Secretary, by any provision of this subchapter, or concerning which any question may arise under any of the provisions of this subchapter, or relating to the enforcement of any of the provisions of this subchapter. The Secretary shall have the same power and authority to proceed with any inquiry instituted upon his own motion as though he had been appealed to by petition, including the power to make and enforce any order or orders in the case or relating to the matter or thing concerning which the inquiry is had, except orders for the payment of money.

(d) No complaint shall at any time be dismissed because of the absence of direct damage to the complainant.

(e) If after hearing on a complaint the Secretary determines that the complainant is entitled to an award of damages, the Secretary shall make an order directing the defendant to pay to the complainant the sum to which he is entitled on or before a day named.

(f) If the defendant does not comply with an order for the payment of money within the time limit in such order, the complainant, or any person for whose benefit such order was made, may within one year of the date of the order file in the district court of the United States for the district in which he resides or in which is located the principal place of business of the defendant or in any State court having general jurisdiction of the parties, a petition setting forth briefly the causes for which he claims damages, and the order of the Secretary in the premises. Such suit in the district court shall proceed in all respects like other civil suits for damages except that the findings and orders of the Secretary shall be prima facie evidence of the facts therein stated, and the petitioner shall not be liable for costs in the district court nor for costs at any subsequent stage of the proceedings unless they accrue upon his appeal. If the petitioner finally prevails, he shall be allowed a reasonable attorney's fee to be taxed and collected as a part of the costs of the suit.

(Aug. 15, 1921, ch. 64, § 309, 42 Stat. 165; Sept. 13, 1976, Pub. L. 94-410, § 3(c), 90 Stat. 1249.)

AMENDMENTS

1976—Subsec. (b). Pub. L. 94-410 substituted "livestock" for "live-stock" following "request of the".

ADMINISTRATIVE ORDERS REVIEW ACT

Court of appeals exclusive jurisdiction respecting final orders of Secretary of Agriculture under this chapter, except orders issued under subsec. (e) of this section and section 217a of this title, see section 2342 of Title 28, Judiciary and Judicial Procedure.

CROSS REFERENCES

Application to certain licensees, see section 218c of this title.

Enforcement by Secretary of Agriculture under this chapter, with respect to activities subject to this chapter, of requirements imposed under section 1601 et seq. of Title 15, Commerce and Trade, see section 1607 of Title 15.

Enforcement of liability to individuals for violations, by complaint to Secretary as provided in this section, see section 209 of this title.

FEDERAL RULES OF CIVIL PROCEDURE

Costs, application of Rules of Civil Procedure, see rule 54, Title 28, Appendix, Judiciary and Judicial Procedure.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 209, 211, 218c of this title; title 28 section 2342.

§ 211. Order of Secretary as to charges or practices; prescribing rates and practices generally

Whenever after full hearing upon a complaint made as provided in section 210 of this title, or after full hearing under an order for investigation and hearing made by the Secretary on his own initiative, either in extension of any pending complaint or without any complaint whatever, the Secretary is of the opinion that any rate, charge, regulation, or practice of a stockyard owner or market agency, for or in connection with the furnishing of stockyard services, is or will be unjust, unreasonable, or discriminatory, the Secretary—

(a) May determine and prescribe what will be the just and reasonable rate or charge, or rates or charges, to be thereafter in such case observed as both the maximum and minimum to be charged, and what regulation or practice is or will be just, reasonable, and nondiscriminatory to be thereafter followed; and

(b) May make an order that such owner or operator (1) shall cease and desist from such violation to the extent to which the Secretary finds that it does or will exist; (2) shall not thereafter publish, demand, or collect any rate or charge for the furnishing of stockyard services more or less than the rate or charge so prescribed; and (3) shall conform to and observe the regulation or practice so prescribed.

(Aug. 15, 1921, ch. 64, § 310, 42 Stat. 166; Aug. 10, 1939, ch. 663, 53 Stat. 1351.)

AMENDMENTS

1939—Subdiv. (a). Act Aug. 10, 1939 substituted "as both" for "or the".

Subdiv. (b)(2). Act Aug. 10, 1939 substituted "more or less than the rate or charge so prescribed" for "other than the rate or charge so prescribed, or in excess of the maximum or less than the minimum so prescribed, as the case may be".

CROSS REFERENCES

Application to certain licensees, see section 218c of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 215, 218c of this title.

§ 212. Prescribing rates and practices to prevent discrimination between intrastate and interstate commerce

Whenever in any investigation under the provisions of this subchapter, or in any investigation instituted by petition of the stockyard owner, market agency, or dealer concerned, which petition is authorized to be filed, the Secretary after full hearing finds that any rate, charge, regulation, or practice of any stockyard owner, market agency, or dealer, for or in connection with the buying or selling on a commission basis or otherwise, receiving, marketing, feeding, holding, delivery, shipment, weighing, or handling, not in commerce, of livestock, causes any undue or unreasonable advantage, prejudice, or preference as between persons or localities in intrastate commerce in livestock on the one hand and interstate or foreign commerce in livestock on the other hand, or any undue, unjust, or unreasonable discrimination against interstate or foreign commerce in livestock, which is hereby forbidden and declared to be unlawful, the Secretary shall prescribe the rate, charge, regulation, or practice thereafter to be observed, in such manner as, in his judgment, will remove such advantage, preference, or discrimination. Such rates, charges, regulations, or practices shall be observed while in effect by the stockyard owners, market agencies, or dealers parties to such proceeding affected thereby, the law of any State or the decision or order of any State authority to the contrary notwithstanding.

(Aug. 15, 1921, ch. 64, § 311, 42 Stat. 167; Sept. 2, 1958, Pub. L. 85-909, § 2(4), 72 Stat. 1750; Sept. 13, 1976, Pub. L. 94-410, § 3(c), 90 Stat. 1249.)

AMENDMENTS

1976—Pub. L. 94-410 substituted "livestock" for "live stock" wherever appearing.

1958—Pub. L. 85-909 substituted "stockyard owner, market agency, or dealer" for "stockyard owner or market agency" wherever occurring, and "stockyard owners, market agencies, or dealers" for "stockyard owners or market agencies".

CROSS REFERENCES

Application to certain licensees, see section 218c of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 215, 218c of this title.

§ 213. Prevention of unfair, discriminatory, or deceptive practices

(a) It shall be unlawful for any stockyard owner, market agency, or dealer to engage in or use any unfair, unjustly discriminatory, or deceptive practice or device in connection with determining whether persons should be authorized to operate at the stockyards, or with the receiving, marketing, buying, or selling on a

commission basis or otherwise, feeding, watering, holding, delivery, shipment, weighing, or handling of livestock.

(b) Whenever complaint is made to the Secretary by any person, or whenever the Secretary has reason to believe, that any stockyard owner, market agency, or dealer is violating the provisions of subsection (a) of this section, the Secretary after notice and full hearing may make an order that he shall cease and desist from continuing such violation to the extent that the Secretary finds that it does or will exist. The Secretary may also assess a civil penalty of not more than $10,000 for each such violation. In determining the amount of the civil penalty to be assessed under this section, the Secretary shall consider the gravity of the offense, the size of the business involved, and the effect of the penalty on the person's ability to continue in business. If, after the lapse of the period allowed for appeal or after the affirmance of such penalty, the person against whom the civil penalty is assessed fails to pay such penalty, the Secretary may refer the matter to the Attorney General who may recover such penalty by an action in the appropriate district court of the United States.

(Aug. 15, 1921, ch. 64, § 312, 42 Stat. 167; Sept. 2, 1958, Pub. L. 85-909, § 2(5), 72 Stat. 1750; July 31, 1968, Pub. L. 90-446, § 1(e), 82 Stat. 475; Sept. 13, 1976, Pub. L. 94-410, § 3, 90 Stat. 1249.)

AMENDMENTS

1976—Subsec. (a). Pub. L. 94-410, § 3(a), (c), struck out "in commerce" following "or handling" and substituted "livestock" for "live stock" following "or handling", respectively.

Subsec. (b). Pub. L. 94-410, § 3(b), added provisions dealing with authority of Secretary to assess a civil penalty for violations and, upon failure to pay, procedure for recovery of such penalty.

1968—Subsec. (a). Pub. L. 90-446 added "determining whether persons should be authorized to operate at stockyards, or with" following "in connection with".

1958—Subsec. (a). Pub. L. 85-909 deleted the words "at a stockyard" following "in commerce".

CROSS REFERENCES

Application to certain licensees, see section 218c of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 215, 218c of this title.

§ 214. Effective date of orders

Except as otherwise provided in this chapter all orders of the Secretary under this subchapter, other than orders for the payment of money, shall take effect within such reasonable time, not less than five days, as is prescribed in the order, and shall continue in force until his further order, or for a specified period of time, according as is prescribed in the order, unless such order is suspended or modified or set aside by the Secretary or is suspended or set aside by a court of competent jurisdiction.

(Aug. 15, 1921, ch. 64, § 313, 42 Stat. 167.)

CROSS REFERENCES

Application to certain licensees, see section 218c of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 218c of this title.

§ 215. Failure to obey orders; punishment

(a) Any stockyard owner, market agency, or dealer who knowingly fails to obey any order made under the provisions of sections 211, 212, or 213 of this title shall forfeit to the United States the sum of $500 for each offense. Each distinct violation shall be a separate offense, and in case of a continuing violation each day shall be deemed a separate offense. Such forfeiture shall be recoverable in a civil suit in the name of the United States.

(b) It shall be the duty of the various United States attorneys, under the direction of the Attorney General, to prosecute for the recovery of forfeitures. The costs and expense of such prosecution shall be paid out of the appropriation for the expenses of the courts of the United States.

(Aug. 15, 1921, ch. 64, § 314, 42 Stat. 167; June 25, 1948, ch. 646, § 1, 62 Stat. 909.)

CHANGE OF NAME

The term "district attorneys" was changed to "United States attorneys" by act June 25, 1948, eff. Sept. 1, 1948. See section 541 et seq. of Title 28, Judiciary and Judicial Procedure.

CROSS REFERENCES

Application to certain licensees, see section 218c of this title.

Jurisdiction of district courts of actions for recovery of forfeitures, see section 1355 of Title 28, Judiciary and Judicial Procedure.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 218c of this title.

§ 216. Proceedings to enforce orders; injunction

If any stockyard owner, market agency, or dealer fails to obey any order of the Secretary other than for the payment of money while the same is in effect, the Secretary, or any party injured thereby, or the United States by its Attorney General, may apply to the district court for the district in which such person has his principal place of business for the enforcement of such order. If after hearing the court determines that the order was lawfully made and duly served and that such person is in disobedience of the same, the court shall enforce obedience to such order by a writ of injunction or other proper process, mandatory or otherwise, to restrain such person, his officers, agents, or representatives from further disobedience of such order or to enjoin upon him or them obedience to the same.

(Aug. 15, 1921, ch. 64, § 315, 42 Stat. 167.)

CROSS REFERENCES

Application to certain licensees, see section 218c of this title.

Enforcement and review of Interstate Commerce Commission orders, see chapter 157 of Title 28, Judiciary and Judicial Procedure.

Revocation of registration as market agency of department or agency of the State, enforcement as provided in this section, see section 205 of this title.

FEDERAL RULES OF CIVIL PROCEDURE

Continuation of section under rule 65, see note by Advisory Committee under rule 65, Title 28, Appendix, Judiciary and Judicial Procedure.

Injunctions, see rule 65.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 218c of this title.

§ 217. Proceedings for suspension of orders

For the purposes of this subchapter, the provisions of all laws relating to the suspending or restraining the enforcement, operation, or execution of, or the setting aside in whole or in part the orders of the Interstate Commerce Commission, are made applicable to the jurisdiction, powers, and duties of the Secretary in enforcing the provisions of this subchapter, and to any person subject to the provisions of this subchapter.

(Aug. 15, 1921, ch. 64, § 316, 42 Stat. 168.)

CROSS REFERENCES

Application to certain licensees, see section 218c of this title.

Exclusive jurisdiction of courts of appeals to enjoin and set aside final orders of Secretary of Agriculture under this chapter, see section 2342 of Title 28, Judiciary and Judicial Procedure.

Jurisdiction of district courts to enjoin and set aside orders of Interstate Commerce Commission, see section 1336 of Title 28.

Procedure for enforcement and review of orders of Interstate Commerce Commission, see section 2321 et seq. of Title 28.

FEDERAL RULES OF CIVIL PROCEDURE

Continuation of section under rule 65, see note by Advisory Committee under rule 65, Title 28, Appendix, Judiciary and Judicial Procedure.

Process, stay of proceedings to enforce judgment and injunctions, see rules 4, 62, 65.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 218c of this title.

§ 217a. Brand inspection fees by registered market agencies

(a) The Secretary may, upon written application made to him, and if he deems it necessary, authorize the charging and collection, at any stockyard subject to the provisions of this chapter, by any department or agency of any State in which branding or marking or both branding and marking livestock as a means of establishing ownership prevails by custom or statute, or by a duly organized livestock association of any such State, of a reasonable and nondiscriminatory fee for the inspection of brands, marks, and other identifying characteristics of livestock originating in or shipped from such State, for the purpose of determining the ownership of such livestock. No charge shall be made under any such authorization until the authorized department, agency, or association has registered as a market agency. No more than one such authorization shall be issued with respect to such inspection of livestock originating in or shipped from any one State. If more than one such application is filed with respect to such inspection of livestock originating in or shipped from any one State, the Secretary shall issue such authorization to the applicant deemed by him best qualified to perform the proposed service, on the basis of (1) experience, (2) financial responsibility, (3) extent and efficiency of organization, (4) possession of necessary records, and (5) any other factor relating to the ability of the applicant to perform the proposed service. The Secretary may receive and consider the recommendations of the commissioner, secretary, or director of agriculture, or other appropriate officer or agency of a State as to the qualifications of any applicant in such State. The decision of the Secretary as to the applicant best qualified shall be final.

(b) The provisions of this subchapter, relating to the filing, publication, approval, modification, and suspension of any rate or charge for any stockyard service shall apply with respect to charges authorized to be made under this section.

(c) Charges authorized to be made under this section shall be collected by the market agency or other person receiving and disbursing the funds received from the sale of livestock with respect to the inspection of which such charge is made, and paid by it to the department, agency, or association performing such service.

(d) The Secretary may, if he deems it to be in the public interest, suspend, and after hearing, revoke any authorization and registration issued under the provisions of this section or any similar authorization and registration issued under any other provision of law. The order of the Secretary suspending or revoking any such authorization and registration shall not be subject to review

(Aug. 15, 1921, ch. 64, § 317, as added June 19, 1942, ch. 421, 56 Stat. 372.)

ADMINISTRATIVE ORDERS REVIEW ACT

Court of appeals exclusive jurisdiction respecting final orders of Secretary of Agriculture under this chapter, except orders issued under section 210(e) of this title and this section, see section 2342 of Title 28, Judiciary and Judicial Procedure.

PRIOR PROVISIONS

Former provisions relating to fees for inspection of brands appearing upon livestock were contained in former section 231 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 28 section 2342.

SUBCHAPTER IV—LIVE POULTRY DEALERS AND HANDLERS

§ 218. Unfair, deceptive, and fraudulent practices; necessity to curb

The handling of the great volume of live poultry required as an article of food for the inhabitants of large centers of population is attendant with various unfair, deceptive, and fraudulent practices and devices, resulting in the producers sustaining sundry losses and receiving prices far below the reasonable value of their live poultry in comparison with prices of other commodities and in unduly and arbitrarily enhancing the cost to the consumers. Such practices and devices are an undue restraint and unjust burden upon interstate commerce and are a matter of such grave concern to the industry and to the public as to make it impera-

tive that steps be taken to free such commerce from such burden and restraint and to protect producers and consumers against such practices and devices.

(Aug. 15, 1921, ch. 64, § 501, as added Aug. 14, 1935, ch. 532, 49 Stat. 648.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 218a of this title.

§ 218a. Designation of cities and markets where unfair practices exist; licenses required; application for and issuance by Secretary; penalty for dealing without license

(a) The Secretary of Agriculture is authorized and directed to ascertain from time to time and to designate the cities where such practices and devices exist to the extent stated in section 218 of this title and the markets and places in or near such cities where live poultry is received, sold, and handled in sufficient quantity to constitute an important influence on the supply and price of live poultry and poultry products. On and after the effective date of such designation, which shall be publicly announced by the Secretary by publication in one or more trade journals or in the daily press or in such other manner as he may determine to be adequate for the purpose approximately thirty days prior to such date, no person other than packers as defined in section 191 of this title and railroads shall engage in, furnish, or conduct any service or facility in any such designated city, place, or market in connection with the receiving, buying, or selling, on a commission basis or otherwise, marketing, feeding, watering, holding, delivering, shipping, weighing, unloading, loading on trucks, trucking, or handling in commerce of live poultry without a license from the Secretary of Agriculture as herein authorized valid and effective at such time. Any person who violates any provision of this subsection shall be subject to a fine of not more than $500 or imprisonment of not more than six months, or both.

(b) Any person desiring a license shall make application to the Secretary, who may by regulation prescribe the information to be contained in such application. The Secretary shall issue a license to any applicant furnishing the required information unless he finds after opportunity for a hearing that such applicant is unfit to engage in the activity for which he has made application by reason of his having at any time within two years prior to his application engaged in any practice of the character prohibited by this chapter or because he is financially unable to fulfill the obligations that he would incur as a licensee.

(Aug. 15, 1921, ch. 64, § 502, as added Aug. 14, 1935, ch. 532, 49 Stat. 648.)

CODIFICATION

Section 191 of this title, referred to in subsec. (a), was in the original a reference to "title II of said Act", meaning title II of Act Aug. 15, 1921, which is classified to subchapter II (§ 191 et seq.) of this chapter.

CROSS REFERENCES

Enforcement by Secretary of Agriculture under this chapter, with respect to activities subject to this chapter, of requirements imposed under section 1601 et seq. of Title 15, Commerce and Trade, see section 1607 of Title 15.

Misdemeanor defined, see section 1 of Title 18, Crimes and Criminal Procedure.

§ 218b. "Live poultry dealer" defined

The term "live poultry dealer" means any person engaged in the business of buying or selling live poultry in commerce for purposes of slaughter either on his own account or as the employee or agent of the vendor or purchaser.

(Aug. 15, 1921, ch. 64, § 503, as added Aug. 14, 1935, ch. 532, 49 Stat. 649.)

CODIFICATION

Section was part of section 503 of act Aug. 15, 1921, as added act Aug. 14, 1935, ch. 532, 49 Stat. 649, which, in addition to enacting this section, made conforming amendments to sections 192, 221, 222, 223, and 224 of this title.

§ 218c. Application of other provisions of chapter to subchapter

The provisions of sections 206 to 217 and 221 to 224 of this title shall be applicable to licensees with respect to services and facilities covered by this subchapter and the rates, charges, and rentals therefor except that the schedules of rates, charges, and rentals shall be posted in the place of business of the licensee as prescribed in regulations made by the Secretary.

(Aug. 15, 1921, ch. 64, § 504, as added Aug. 14, 1935, ch. 532, 49 Stat. 649.)

§ 218d. Suspension and revocation of licenses

Whenever the Secretary determines, after opportunity for a hearing, that any licensee has violated or is violating any of the provisions of this subchapter, he may publish the facts and circumstances of such violation and by order suspend the license of such offender for a period not to exceed ninety days and if the violation is flagrant or repeated he may by order revoke the license of the offender.

(Aug. 15, 1921, ch. 64, § 505, as added Aug. 14, 1935, ch. 532, 49 Stat. 649.)

SUBCHAPTER V—GENERAL PROVISIONS

§ 221. Accounts and records of business; punishment for failure to keep

Every packer or any live poultry dealer or handler, stockyard owner, market agency, and dealer shall keep such accounts, records, and memoranda as fully and correctly disclose all transactions involved in his business, including the true ownership of such business by stockholding or otherwise. Whenever the Secretary finds that the accounts, records, and memoranda of any such person do not fully and correctly disclose all transactions involved in his business, the Secretary may prescribe the manner and form in which such accounts, records, and memoranda shall be kept, and thereafter any such person who fails to keep such accounts, records, and memoranda in the manner and form prescribed or approved by the Secretary shall upon conviction be fined not more than $5,000, or imprisoned not more than three years, or both.

(Aug. 15, 1921, ch. 64, § 401, 42 Stat. 168; Aug. 15, 1921, ch. 64, § 503, as added Aug. 14, 1935, ch. 532, 49 Stat. 649.)

CODIFICATION

Act Aug. 15, 1921, § 503, as added Aug. 14, 1935, inserted "or any live poultry dealer or handler" after "packer" wherever it occurs.

CROSS REFERENCES

Application to certain licensees, see section 218c of this title.

Felony defined, see section 1 of Title 18, Crimes and Criminal Procedures.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 218c of this title.

§ 222. Federal Trade Commission powers adopted for enforcement of chapter

For the efficient execution of the provisions of this chapter, and in order to provide information for the use of Congress, the provisions (including penalties) of sections 46 and 48 to 50 of title 15, are made applicable to the jurisdiction, powers, and duties of the Secretary in enforcing the provisions of this chapter and to any person subject to the provisions of this chapter, whether or not a corporation. The Secretary, in person or by such agents as he may designate, may prosecute any inquiry necessary to his duties under this chapter in any part of the United States.

(Aug. 15, 1921, ch. 64, § 402, 42 Stat. 168; Aug. 15, 1921, ch. 64, § 503, as added Aug. 14, 1935, ch. 532, 49 Stat. 649.)

CODIFICATION

Act Aug. 15, 1921, § 503, as added Aug. 14, 1935, purported to insert "or any live poultry dealer or handler" after "packer" but word "packer" does not occur in this section.

TRANSFER OF FUNCTIONS

All executive and administrative functions of the Federal Trade Commission were, with certain reservations, transferred to the Chairman of such Commission by 1950 Reorg. Plan No. 8, § 1, eff. May 24, 1950, 15 F.R. 3175, 64 Stat. 1264, set out in the Appendix to Title 5, Government Organization and Employees.

CROSS REFERENCES

Application to certain licensees, see section 218c of this title.

FEDERAL RULES OF CIVIL PROCEDURE

Application of Rules of Civil Procedure, see rules 45, 81, Title 28, Appendix, Judiciary and Judicial Procedure.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 218c of this title.

§ 223. Responsibility of principal for act or omission of agent

When construing and enforcing the provisions of this chapter, the act, omission, or failure of any agent, officer, or other person acting for or employed by any packer or any live poultry dealer or handler, stockyard owner, market agency, or dealer, within the scope of his employment or office, shall in every case also be deemed the act, omission, or failure of such packer or any live poultry dealer or handler, stockyard owner, market agency, or dealer, as well as that of such agent, officer, or other person.

(Aug. 15, 1921, ch. 64, § 403, 42 Stat. 168; Aug. 15, 1921, ch. 64, § 503, as added Aug. 14, 1935, ch. 532, 49 Stat. 649.)

CODIFICATION

Act Aug. 15, 1921, § 503, as added Aug. 14, 1935, inserted "or any live poultry dealer or handler" after "packer" wherever it occurs.

CROSS REFERENCES

Application to certain licensees, see section 218c of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 218c of this title.

§ 224. Attorney General to institute court proceedings for enforcement

The Secretary may report any violation of this chapter to the Attorney General of the United States, who shall cause appropriate proceedings to be commenced and prosecuted in the proper courts of the United States without delay.

(Aug. 15, 1921, ch. 64, § 404, 42 Stat. 168; Aug. 15, 1921, ch. 64, § 503, as added Aug. 14, 1935, ch. 532, 49 Stat. 649.)

CODIFICATION

Act Aug. 15, 1921, § 503, as added Aug. 14, 1935, purported to insert "or any live poultry dealer or handler" after "packer" but word "packer" does not occur in this section.

CROSS REFERENCES

Application to certain licensees, see section 218c of this title.

Enforcement by Secretary of Agriculture under this chapter, with respect to activities subject to this chapter, of requirements imposed under section 1601 et seq. of Title 15, Commerce and Trade, see section 1607 of Title 15.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 218c of this title.

§ 225. Laws unaffected

Nothing contained in this chapter, except as otherwise provided herein, shall be construed—

(a) To prevent or interfere with the enforcement of, or the procedure under, the provisions of the Act entitled "An Act to protect trade and commerce against unlawful restraints and monopolies," approved July 2, 1890, the Act entitled "An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes," approved October 15, 1914, the Interstate Commerce Act as amended, the Act entitled "An Act to promote export trade, and for other purposes," approved April 10, 1918 [15 U.S.C. 61 et seq.] or sections 73 to 77, inclusive, of the Act of August 27, 1894, entitled "An Act to reduce taxation, to provide revenue for the Government, and for other purposes," as amended by the Act entitled "An Act to amend sections seventy-three and seventy-six

of the Act of August twenty-seventh, eighteen hundred and ninety-four, entitled 'An Act to reduce taxation, to provide revenue for the Government, and for other purposes,'" approved February 12, 1913, or

(b) To alter, modify, or repeal such Acts or any part or parts thereof, or

(c) To prevent or interfere with any investigation, proceeding, or prosecution begun and pending on August 15, 1921.

(Aug. 15, 1921, ch. 64, § 405, 42 Stat. 168.)

REFERENCES IN TEXT

Act July 2, 1890, referred to in subdiv. (a), is known as the Sherman Antitrust Act, and is classified to sections 1 to 7 of Title 15, Commerce and Trade.

Act Oct. 15, 1914, referred to in subdiv. (a), is known as the Clayton Act, and is classified to sections 12, 13, 14 to 19, 20, 21, 22 to 27, and 44 of Title 15, and sections 52 and 53 of Title 29, Labor. See, also, "References in Text" note set out under section 12 of Title 15. Part of section 1 of said act, defining "person" or "persons" was omitted as covered by section 402 of Title 18, Crimes and Criminal Procedure. Sections 9 and 21 to 25 of said act were repealed by act June 25, 1948, ch. 645, § 21, 62 Stat. 862, eff. Sept. 1, 1948, and their provisions are now covered by sections 402, 660, 3285 and 3691 of Title 18. Former section 23 is obsolete and not now covered. Sections 17 to 19 of said act were repealed by act June 25, 1948, ch. 646, § 39, 62 Stat. 992, eff. Sept. 1, 1948, and their provisions are now covered by Fed. Rules Civ. Proc., rule 65, Title 28, Appendix, Judiciary and Judicial Procedure.

The Interstate Commerce Act as amended, referred to in subdiv. (a), is act Feb. 4, 1887, ch. 104, 24 Stat. 379, as amended, which is classified to chapters 1 (§ 1 et seq.), 8 (§ 301 et seq.), 12 (§ 901 et seq.), 13 (§ 1001 et seq.), and 19 (§ 1231 et seq.) of Title 49, Transportation. For complete classification of this Act to the Code, see note captioned "Interstate Commerce Act" set out under section 27 of Title 49 and Tables volume.

Act Apr. 10, 1918, referred to in subdiv. (a), is known as the Webb-Pomerene Act, and is classified to subchapter II (§ 61 et seq.) of chapter 2 of Title 15, Commerce and Trade.

Sections 73 to 77 of the Act of August 27, 1894, referred to in subdiv. (a), are known as the Wilson Tariff Act, and are classified to sections 8 to 11 of Title 15.

Act Feb. 12, 1913, referred to in subdiv. (a), is set out as amendment to sections 8 and 11 of Title 15.

§ 226. Powers of Interstate Commerce Commission unaffected.

Nothing in this chapter shall affect the power or jurisdiction of the Interstate Commerce Commission, nor confer upon the Secretary concurrent power or jurisdiction over any matter within the power or jurisdiction of such commission.

(Aug. 15, 1921, ch. 64, § 406, 42 Stat. 169.)

CODIFICATION

Section is comprised of subsec. (a) of section 406 of act Aug. 15, 1921. Subsecs. (b) to (e) of section 406 are set out as section 227 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 15 sections 1607, 1681s, 1691c.

§ 227. Powers of Federal Trade Commission and Secretary of Agriculture; reports

(a) The Federal Trade Commission shall have power and jurisdiction over any matter involving meat, meat food products, livestock products in unmanufactured form, or poultry products, which by this chapter is made subject to the power or jurisdiction of the Secretary, as follows:

(1) When the Secretary in the exercise of his duties requests of the Commission that it make investigations and reports in any case.

(2) In any investigation of, or proceeding for the prevention of, an alleged violation of any Act administered by the Commission, arising out of acts or transactions involving meat, meat food products, livestock products in unmanufactured form, or poultry products, if the Commission determines that effective exercise of its power or jurisdiction with respect to retail sales of any such commodities is or will be impaired by the absence of power or jurisdiction over all acts or transactions involving such commodities in such investigation or proceeding. In order to avoid unnecessary duplication of effort by the Government and burdens upon the industry, the Commissioner shall notify the Secretary of such determination, the reasons therefor, and the acts or transactions involved, and shall not exercise power or jurisdiction with regard to acts or transactions (other than retail sales) involving such commodities if the Secretary within ten days from the date of receipt of the notice notifies the Commission that there is pending in his Department an investigation of, or proceeding for the prevention of, an alleged violation of this chapter involving the same subject matter.

(3) Over all transactions in commerce in margarine or oleomargarine and over retail sales of meat, meat food products, livestock products in unmanufactured form, and poultry products.

(b) The Federal Trade Commission shall have no power or jurisdiction over any matter which by this chapter is made subject to the jurisdiction of the Secretary, except as provided in subsection (a) of this section.

(c) The Secretary of Agriculture shall exercise power or jurisdiction over oleomargarine or retail sales of meat, meat food products, livestock products in unmanufactured form, or poultry products only when he determines, in any investigation of, or any proceeding for the prevention of, an alleged violation of this chapter, that such action is necessary to avoid impairment of his power or jurisdiction over acts or transactions involving livestock, meat, meat food products, livestock products in unmanufactured form, poultry or poultry products, other than retail sales thereof. In order to avoid unnecessary duplication of effort by the Government and burdens upon the industry, the Secretary shall notify the Federal Trade Commission of such determination, the reasons therefor, and the acts or transactions involved, and shall not exercise power or jurisdiction with respect to acts or transactions involving oleomargarine or retail sales of meat, meat food products, livestock products in unmanufactured form, or poultry products if the Commission within ten days from the date of receipt of such notice notifies the Secretary that there is pending in the Commission an investigation of, or proceeding for the prevention of, an alleged violation of any Act administered by the Commission involving the same subject matter.

(d) The Secretary of Agriculture and the Federal Trade Commission shall include in their respective annual reports information with respect to the administration of subsections (a) and (c) of this section.

(Aug. 15, 1921, ch. 64, § 406(b)-(e), 42 Stat. 169; Sept. 2, 1958, Pub. L. 85-909, § 1(2), 72 Stat. 1749.)

CODIFICATION

Subsecs. (a) to (d) of this section are comprised of subsecs. (b) to (e) of section 406 of act Aug. 15, 1921, as amended by Act. Sept. 2, 1958, Pub. L. 85-909. Subsec. (a) of section 406 is set out as section 226 of this title.

AMENDMENTS

1958—Pub. L. 85-909 added the provisions of subsecs. (a) to (d). Provisions of former section 227, providing that the Federal Trade Commission shall have no power or jurisdiction over matters within the jurisdiction of the Secretary of Agriculture except when the Secretary requests the Commission to make investigations and reports in any case, were incorporated in subsecs. (a)(1) and (b) of this section.

TRANSFER OF FUNCTIONS

All executive and administrative functions of the Federal Trade Commission were, with certain reservations, transferred to the Chairman of such Commission by 1950 Reorg. Plan No. 8, § 1, eff. May 24, 1950, 15 F.R. 3175, 64 Stat. 1264, set out in the Appendix to Title 5, Government Organization and Employees.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 15 sections 45, 1607, 1681s, 1691c.

§ 228. Authority of Secretary

(a) Rules, regulations, and expenditures; appropriations

The Secretary may make such rules, regulations, and orders as may be necessary to carry out the provisions of this chapter and may cooperate with any department or agency of the Government, any State, Territory, District, or possession, or department, agency, or political subdivision thereof, or any person; and shall have the power to appoint, remove, and fix the compensation of such officers and employees, not in conflict with existing law, and make such expenditures for rent outside the District of Columbia, printing, telegrams, telephones, law books, books of reference, periodicals, furniture, stationery, office equipment, travel, and other supplies and expenses as shall be necessary to the administration of this chapter in the District of Columbia and elsewhere, and as may be appropriated for by Congress, and there is authorized to be appropriated, out of any money in the Treasury not otherwise appropriated, such sums as may be necessary for such purpose.

(b) Separate enforcement unit within Department

The Secretary shall maintain within the Department of Agriculture a separate enforcement unit to administer and enforce subchapter II of this chapter.

(c) Deductions from proceeds for financing promotional, educational, and research activities

Notwithstanding any other provision of law, the authority of the Secretary under this chapter shall not apply to deductions made from sales proceeds for the purpose of financing promotion and research activities, including educational activities relating to livestock, meat, and other products covered by the chapter.

(d) Budget estimate; testimony of Secretary before Congressional committees

On or before February 15 of each calendar year beginning with calendar year 1977, or such other date as may be specified by the appropriate committee, the Secretary of Agriculture shall testify before the Senate Committee on Agriculture, Nutrition, and Forestry and the House Committee on Agriculture and provide justification in detail of the amount requested in the budget to be appropriated for the next fiscal year for the purposes authorized in this chapter.

(e) Development and promulgation of rules governing hearings

The Secretary shall, not later than sixty days after September 13, 1976, prescribe and implement rules to assure that any hearing from which any order may issue under this chapter or any hearing the expenses of which are paid from funds authorized to be appropriated under this chapter shall—

(1) if such hearing concerns a single unit of local government or the residents thereof, be held within the boundaries of such unit;

(2) if such hearing concerns a single geographic area within a State or the residents thereof, be held within the boundaries of such area; or

(3) if such hearing concerns a single State or the residents thereof, be held within such State.

(f) Definitions

For the purposes of subsection (e) of this section—

(1) the term "unit of local government" means a county, municipality, town, township, village, or other unit of general government below the State level; and

(2) the term "geographic area within a State" means a special purpose district or other region recognized for governmental purposes within such State which is not a unit of local government.

(Aug. 15, 1921, ch. 64, § 407, 42 Stat. 169; Sept. 2, 1958, Pub. L. 85-909, § 4, 72 Stat. 1750; July 8, 1963, Pub. L. 88-61, 77 Stat. 79; Sept. 13, 1976, Pub. L. 94-410, § 11, 90 Stat. 1252; S. Res. 4, Feb. 4, 1977.)

AMENDMENTS

1976—Subsecs. (d) to (f). Pub. L. 94-410 added subsecs. (d) to (f).

1963—Subsec. (c). Pub. L. 88-61 added subsec. (c).

1958—Pub. L. 85-909 designated existing provisions as subsec. (a) and added subsec. (b).

CHANGE OF NAME

The Committee on Agriculture and Forestry of the Senate was abolished and replaced by the Committee on Agriculture, Nutrition, and Forestry of the Senate, effective Feb. 11, 1977. See Rule XXV of the Standing Rules of the Senate, as amended by Senate Resolution 4 (popularly cited as the "Committee System Reorganization Amendments of 1977"), approved Feb. 4, 1977.

§ 228a. Authority of Secretary to request temporary injunction or restraining order

Whenever the Secretary has reason to believe that any person subject to this chapter (a) with respect to any transactions subject to this chapter, has failed to pay or is unable to pay for livestock, meats, meat food products, or livestock products in unmanufactured form, or has failed to remit to the person entitled thereto the net proceeds from the sale of any such commodity sold on a commission basis; or (b) has operated while insolvent, or otherwise in violation of this chapter in a manner which may reasonably be expected to cause irreparable damage to another person; or (c) does not have the required bond; and that it would be in the public interest to enjoin such person from operating subject to this chapter or enjoin him from operating subject to this chapter except under such conditions as would protect venders or consignors of such commodities or other affected persons, until a complaint under this chapter is issued and dismissed by the Secretary or until an order to cease and desist made thereon by the Secretary has become final and effective within the meaning of this chapter or is set aside on appellate review of the Secretary's order, the Secretary may notify the Attorney General, who may apply to the United States district court for the district in which such person has his principal place of business or in which he resides for a temporary injunction or restraining order. When needed to effectuate the purposes of this section, the court shall, upon a proper showing, issue a temporary injunction or restraining order, without bond. Attorneys employed by the Secretary of Agriculture may, with the approval of the Attorney General, appear in the United States district court representing the Secretary in any action seeking such a temporary restraining order or injunction.

(Aug. 15, 1921, ch. 64, § 408, as added Sept. 13, 1976, Pub. L. 94–410, § 5, 90 Stat. 1250.)

CODIFICATION

A prior section has been transferred to section 396 of this title.

§ 228b. Prompt payment for purchase of livestock

(a) Full amount of purchase price required; methods of payment

Each packer, market agency, or dealer purchasing livestock shall, before the close of the next business day following the purchase of livestock and transfer of possession thereof, deliver to the seller or his duly authorized representative the full amount of the purchase price: *Provided,* That each packer, market agency, or dealer purchasing livestock for slaughter shall, before the close of the next business day following purchase of livestock and transfer of possession thereof, actually deliver at the point of transfer of possession to the seller or his duly authorized representative a check or shall wire transfer funds to the seller's account for the full amount of the purchase price; or, in the case of a purchase on a carcass or "grade and yield" basis, the purchaser shall make payment by check at the point of transfer of possession or shall wire transfer funds to the seller's account for the full amount of the purchase price not later than the close of the first business day following determination of the purchase price: *Provided further,* That if the seller or his duly authorized representative is not present to receive payment at the point of transfer of possession, as herein provided, the packer, market agency or dealer shall wire transfer funds or place a check in the United States mail for the full amount of the purchase price, properly addressed to the seller, within the time limits specified in this subsection, such action being deemed compliance with the requirement for prompt payment.

(b) Waiver of prompt payment by written agreement; disclosure requirements

Notwithstanding the provisions of subsection (a) of this section and subject to such terms and conditions as the Secretary may prescribe, the parties to the purchase and sale of livestock may expressly agree in writing, before such purchase or sale, to effect payment in a manner other than that required in subsection (a) of this section. Any such agreement shall be disclosed in the records of any market agency or dealer selling the livestock, and in the purchaser's records and on the accounts or other documents issued by the purchaser relating to the transaction.

(c) Delay in payment or attempt to delay deemed unfair practice

Any delay or attempt to delay by a market agency, dealer, or packer purchasing livestock, the collection of funds as herein provided, or otherwise for the purpose of or resulting in extending the normal period of payment for such livestock shall be considered an "unfair practice" in violation of this chapter. Nothing in this section shall be deemed to limit the meaning of the term "unfair practice" as used in this chapter.

(Aug. 15, 1921, ch. 64, § 409, as added Sept. 13, 1976, Pub. L. 94–410, § 7, 90 Stat. 1250.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 196, 228c of this title.

§ 228c. Federal preemption of State and local requirements

No requirement of any State or territory of the United States, or any subdivision thereof, or the District of Columbia, with respect to bonding of packers or prompt payment by packers for livestock purchases may be enforced upon any packer operating in compliance with the bonding provisions under section 204 of this title, and prompt payment provisions of section 228b of this title, respectively: *Provided,* That this section shall not preclude a State from enforcing a requirement, with respect to payment for livestock purchased by a packer at a stockyard subject to this chapter, which is not in conflict with this chapter or regulations thereunder: *Provided further,* That this section shall not preclude a State from enforcing State law or regulations with respect to any packer not subject to this chapter or section 204 of this title.

(Aug. 15, 1921, ch. 64, § 410, as added Sept. 13, 1976, Pub. L. 94-410, § 9, 90 Stat. 1252.)

§ 229. Separability of provisions

If any provision of this chapter or the application thereof to any person or circumstances is held invalid, the validity of the remainder of the chapter and of the application of such provision to ohter persons and circumstances shall not be affected thereby.

(Aug. 15, 1921, ch. 64, § 409, formerly § 408, 42 Stat. 169, renumbered Sept. 13, 1976, Pub. L. 94-410, § 5, 90 Stat. 1250.)

SUBCHAPTER VI—CHARGE FOR INSPECTION

§ 231. Omitted

CODIFICATION

Section, act July 22, 1942, ch. 516, § 1, 56 Stat. 689, was from the Department of Agriculture Appropriation Act, 1943, provided for fees for inspection of brands appearing upon livestock, and is now covered by section 217a of this title.

SIMILAR PROVISIONS

Similar provisions were contained in the following prior appropriation acts:
July 1, 1941, ch. 267, § 1, 55 Stat. 432.
June 25, 1940, ch. 421, § 1, 54 Stat. 557.
June 30, 1939, ch. 253, title I, § 101, 53 Stat. 970.
June 16, 1938, ch. 464, title I, § 101, 52 Stat. 721.
June 29, 1937, ch. 404, 50 Stat. 406.
June 4, 1936, ch. 489, 49 Stat. 1432.
May 17, 1935, ch. 131, title I, § 1, 49 Stat. 257.
Mar. 26, 1934, ch. 89, 48 Stat. 477.
Mar. 3, 1933, ch. 203, 47 Stat. 1441.
July 7, 1932, ch. 443, 47 Stat. 620.
Feb. 23, 1931, ch. 278, 46 Stat. 1252.
May 27, 1930, ch. 341, 46 Stat. 402.
Feb. 16, 1929, ch. 227, 45 Stat. 1198.

CHAPTER 10—WAREHOUSES

Sec.
241. Short title.
242. Definitions.
243. Investigation of warehousing, weighing, classifying, and certification of agricultural products; inspection of warehouses; prescribing duties of warehousemen.
244. Licensing warehouseman.
245. Term of license; renewal.
246. Suspension and revocation of license.
247. Bond of applicant for warehouse license; additional bond.
248. License to person not warehouseman; bond; duties of licensee.
249. Action on bond by person injured.
250. Designation as bonded warehouse.
251. Fee for warehouse inspection or license; disposition of moneys.
252. License to classify, grade, or weigh agricultural products.
253. Suspension and revocation of license to classify, grade, or weigh.
254. Discrimination by warehouseman prohibited.
255. Deposits of products deemed subject to chapter.
256. Inspection and grading or products stored.
257. Standards for agricultural products.
258. Mingling products stored.
259. Receipts for products stored.
260. Contents of receipts.
261. Issuance of further receipt with original outstanding.
262. Delivery of products stored on demand; conditions to delivery.
263. Cancellation of receipt on delivery of product stored.
264. Records; reports to Secretary of Agriculture; compliance with provisions of chapter, rules, and regulations.
265. Examination of stored products; publication of findings.
266. Publication of investigation of warehousing, names and locations of bonded warehouses, and revocation of licenses.
267. Examination of books, records, etc., of warehousemen.
268. Rules and regulations.
269. Cooperation with State authorities; authority of Secretary; operation of existing laws.
270. Punishment for violations; reimbursement of owner of products converted.
271. Employment of temporary personnel.
272. Separability of provisions.
273. Rights reserved.

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in sections 7a, 79a, 420 of this title.

§ 241. Short title

This chapter shall be known by the short title of "United States Warehouse Act."

(Aug. 11, 1916, ch. 313, part C, § 1, 39 Stat. 486.)

CODIFICATION

This chapter constitutes part C of "An act making appropriations for the Department of Agriculture for the fiscal year ending June 13, 1917, and for other purposes," approved Aug. 11, 1916. Part A of act of Aug. 11, 1916, ch. 313, containing the "United States Cotton Futures Act" formerly classified to chapter 13 of Title 26, Internal Revenue, was repealed by section 4 of Act Feb. 10, 1939, ch. 2, 53 Stat. 1. Part B of that act contained the "United States Grain Standards Act" and constitutes section 71 et seq. of this title.

CROSS REFERENCES

Warehouse receipts as satisfaction of futures contract, see section 7a of this title.

§ 242. Definitions

The term "warehouse" as used in this chapter shall be deemed to mean every building, structure, or other protected inclosure in which any agricultural product is or may be stored for interstate or foreign commerce, or, if located within any place under the exclusive jurisdiction of the United States, in which any agricultural product is or may be stored. As used in this chapter, "person" includes a corporation or partnership or two or more persons having a joint or common interest; "warehouseman" means a person lawfully engaged in the business of storing agricultural products; and "receipt" means a warehouse receipt.

(Aug. 11, 1916, ch. 313, part C, § 2, 39 Stat. 486; Feb. 23, 1923, ch. 106, 42 Stat. 1282.)

CODIFICATION

Act Feb. 23, 1923, omitted the second sentence defining "agricultural product."

§ 243. Investigation of warehousing, weighing, classifying, and certification of agricultural products; inspection of warehouses; prescribing duties of warehousemen

The Secretary of Agriculture is authorized to investigate the storage, warehousing, classify-

ing according to grade and otherwise, weighing, and certification of agricultural products; upon application to him by any person applying for license to conduct a warehouse under this chapter, to inspect such warehouse or cause it to be inspected; at any time, with or without application to him, to inspect or cause to be inspected all warehouses licensed under this chapter; to determine whether warehouses for which licenses are applied for or have been issued under this chapter are suitable for the proper storage of any agricultural product or products; to classify warehouses licensed or applying for a license in accordance with their ownership, location, surroundings, capacity, conditions, and other qualities, and as to the kinds of licenses issued or that may be issued for them pursuant to this chapter; and to prescribe, within the limitations of this chapter, the duties of the warehousemen conducting warehouses licensed under this chapter with respect to their care of and responsibility for agricultural products stored therein.

(Aug. 11, 1916, ch. 313, part C, § 3, 39 Stat. 486.)

CROSS REFERENCES

Publication of general investigation of warehousing under this section, see section 266 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 266 of this title.

§ 244. Licensing warehouseman

The Secretary of Agriculture, or his designated representative, is authorized, upon application to him, to issue to any warehouseman a license for the conduct of a warehouse or warehouses in accordance with this chapter and such rules and regulations as may be made hereunder: *Provided,* That each such warehouse be found suitable for the proper storage of the particular agricultural product or products for which a license is applied for, and that such warehouseman agree, as a condition to the granting of the license, to comply with and abide by all the terms of this chapter and the rules and regulations prescribed hereunder.

(Aug. 11, 1916, ch. 313, part C, § 4, 39 Stat. 486; Mar. 2, 1931, ch. 366, § 1, 46 Stat. 1463.)

AMENDMENTS

1931—Act Mar. 2, 1931, inserted "or his designated representative" after "The Secretary of Agriculture" in first clause of this section.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 245 of this title.

§ 245. Term of license; renewal

Each license issued under sections 244 and 248 of this title shall terminate as therein provided, or in accordance with the terms of this chapter and the regulations thereunder, and may from time to time be modified or extended by written instrument.

(Aug. 11, 1916, ch. 313, part C, § 5, 39 Stat. 486; Feb. 23, 1923, ch. 106, 42 Stat. 1282.)

AMENDMENTS

1923—Act Feb. 23, 1923, substituted provisions for termination of the license in accordance with the terms of the license or this chapter, and regulations thereunder for provision for license period.

§ 246. Suspension and revocation of license

The Secretary of Agriculture, or his designated representative, may, after opportunity for hearing has been afforded to the licensee concerned, suspend or revoke any license to any warehouseman conducting a warehouse under this chapter, for any violation of or failure to comply with any provision of this chapter or of the rules and regulations made hereunder, or upon the ground that unreasonable or exorbitant charges have been made for services rendered. Pending investigation, the Secretary of Agriculture, or his designated representative, whenever he deems necessary, may suspend a license temporarily without hearing.

(Aug. 11, 1916, ch. 313, part C, § 25, 39 Stat. 490; Mar. 2, 1931, ch. 366, § 8, 46 Stat. 1465.)

AMENDMENTS

1931—Act Mar. 2, 1931, inserted "or his designated representative" after "Secretary of Agriculture" in first clause of section.

§ 247. Bond of applicant for warehouse license; additional bond

Each warehouseman applying for a license to conduct a warehouse in accordance with this chapter shall, as a condition to the granting thereof, execute and file with the Secretary of Agriculture a good and sufficient bond to the United States to secure the faithful performance of his obligations as a warehouseman under the terms of this chapter and the rules and regulations prescribed hereunder, and of such additional obligations as a warehouseman as may be assumed by him under contracts with the respective depositors of agricultural products in such warehouse. Said bond shall be in such form and amount, shall have such surety or sureties, subject to service of process in suits on the bond within the State, District, or Territory in which the warehouse is located, and shall contain such terms and conditions as the Secretary of Agriculture may prescribe to carry out the purposes of this chapter, and may, in the discretion of the Secretary of Agriculture, include the requirements of fire and/or other insurance. Whenever the Secretary of Agriculture, or his designated representative, shall determine that a previously approved bond is, or for any cause has become, insufficient, he may require an additional bond or bonds to be given by the warehouseman concerned, conforming with the requirements of this section, and unless the same be given within the time fixed by a written demand therefor the license of such warehouseman may be suspended or revoked.

(Aug. 11, 1916, ch. 313, part C, § 6, 39 Stat. 486; July 24, 1919, ch. 26, 41 Stat. 266; Feb. 23, 1923, ch. 106, 42 Stat. 1283; Mar. 2, 1931, ch. 366, § 2, 46 Stat. 1463.)

AMENDMENTS

1931—Act Mar. 2, 1931, omitted "under the laws of the State, District, or Territory in which he is conducting such warehouse, as well as" in the first sentence, and inserted "or his designated representative" after "Secretary of Agriculture" in the last sentence.

1923—Act Feb. 23, 1923, inserted provision permitting the Secretary of Agriculture, in his discretion, to include the requirements of fire insurance among the terms and conditions of the bond.

1919—Act July 24, 1919, struck out the words "other than personal security" following "good and sufficient bond" from the first sentence and the words "including the requirements of fire insurance" at the end of the second sentence.

CROSS REFERENCES

Action on bond by person injured, see section 249 of this title.

Designation as bonded warehouse, filing of bond such as is provided in this section as prerequisite to, see section 250 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 249, 250 of this title.

§ 248. License to person not warehouseman; bond; duties of licensee

The Secretary of Agriculture, or his designated representative, may, under such rules and regulations as he shall prescribe, issue a license to any person not a warehouseman to accept the custody of agricultural products and to store the same in a warehouse or warehouses owned, operated, or leased by any State, upon condition that such person agree to comply with and abide by the terms of this chapter and the rules and regulations prescribed hereunder. Each person so licensed shall issue receipts for the agricultural products placed in his custody, and shall give bond, in accordance with the provisions of this chapter, and the rules and regulations hereunder affecting warehousemen licensed under this chapter, and shall otherwise be subject to this chapter, and such rules and regulations, to the same extent as is provided for warehousemen licensed hereunder.

(Aug. 11, 1916, ch. 313, part C, § 9, 39 Stat. 487; Mar. 2, 1931, ch. 366, § 4, 46 Stat. 1464.)

AMENDMENTS

1931—Act Mar. 2, 1931, inserted "or his designated representative" after "Secretary of Agriculture" in first clause of section.

CROSS REFERENCES

Action on bond by person injured, see section 249 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 245, 249 of this title.

§ 249. Action on bond by person injured

Any person injured by the breach of any obligation to secure which a bond is given, under the provisions of sections 247 or 248 of this title, shall be entitled to sue on the bond in his own name in any court of competent jurisdiction to recover the damages he may have sustained by such breach.

(Aug. 11, 1916, ch. 313, part C, § 7, 39 Stat. 487.)

§ 250. Designation as bonded warehouse

Upon the filing with and approval by the Secretary of Agriculture, or his designated representative, of a bond, in compliance with this chapter, for the conduct of a warehouse, such warehouse may be designated as bonded hereunder; but no warehouse shall be designated as bonded under this chapter, and no name or description conveying the impression that it is so bonded, shall be used, until a bond, such as provided for in section 247 of this title, has been filed with and approved by the Secretary of Agriculture, or his designated representative, nor unless the license issued under this chapter for the conduct of such warehouse remains unsuspended and unrevoked.

(Aug. 11, 1916, ch. 313, part C, § 8, 39 Stat. 487; Mar. 2, 1931, ch. 366, § 3, 46 Stat. 1463.)

AMENDMENTS

1931—Act Mar. 2, 1931, substituted "may" for "shall" before "be designated" in first clause, and inserted "or his designated representative" after "Secretary of Agriculture" throughout.

CROSS REFERENCES

Punishment for violating the provisions of this section, see section 270 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 270 of this title.

§ 251. Fee for warehouse inspection or license; disposition of moneys

The Secretary of Agriculture, or his designated representative, may charge, assess, and cause to be collected a reasonable fee for every examination or inspection of a warehouse under this chapter when such examination or inspection is made upon application of a warehouseman, and for each license issued to a warehouseman or to any person to classify, inspect, grade, sample, and/or weigh agricultural products stored or to be stored under the provisions of this chapter, the Secretary of Agriculture, or his designated representative, may charge, assess, and cause to be collected a reasonable fee. All such fees shall be deposited and covered into the Treasury as miscellaneous receipts.

(Aug. 11, 1916, ch. 313, part C, § 10, 39 Stat. 487; Mar. 2, 1931, ch. 366, § 5, 46 Stat. 1464.)

AMENDMENTS

1931—Act Mar. 2, 1931, inserted "or his designated representative" after "Secretary of Agriculture," substituted "may" for "shall" where appearing for first time and substituted provision authorizing a reasonable fee to be charged for license issued to warehouseman or other person to classify etc., agricultural products for former provision requiring a fee of $2 per annum for each license or renewal thereof issued to a warehouseman, all in first sentence.

§ 252. License to classify, grade, or weigh agricultural products

The Secretary of Agriculture, or his designated representative, may upon presentation of satisfactory proof of competency, issue to any person a license to inspect, sample, or classify any agricultural product or products, stored or to be stored in a warehouse licensed under this chapter, according to condition, grade, or otherwise and to certificate the condition, grade, or other class thereof, or to weigh the same and certificate the weight thereof, or both to inspect, sample, or classify and weigh the same and to certificate the condition, grade, or other class and the weight thereof, upon condition

that such person agree to comply with and abide by the terms of this chapter and of the rules and regulations prescribed hereunder so far as the same relate to him.

(Aug. 11, 1916, ch. 313, part C, § 11, 39 Stat. 487; Feb. 23, 1923, ch. 106, 42 Stat. 1283; Mar. 2, 1931, ch. 366, § 6, 46 Stat. 1464.)

AMENDMENTS

1931—Act Mar. 2, 1931, inserted "or his designated representative" after "Secretary of Agriculture" in first clause of section.

1923—Act Feb. 23, 1923, inserted the words "inspect, sample or" preceding "classify" and "condition" preceding "grade" wherever appearing in this section.

§ 253. Suspension and revocation of license to classify, grade, or weigh

Any license issued to any person to inspect, sample, or classify, or to weigh any agricultural product or products under this chapter may be suspended or revoked by the Secretary of Agriculture, or his designated representative, whenever he is satisfied, after opportunity afforded to the licensee concerned for a hearing, that such licensee has failed to inspect, sample, or classify, or to weigh any agricultural product or products correctly, or has violated any of the provisions of this chapter or of the rules and regulations prescribed hereunder, so far as the same may relate to him, or that he has used his license or allowed it to be used for any improper purpose whatever. Pending investigation, the Secretary of Agriculture, or his designated representative, whenever he deems necessary, may suspend a license temporarily without hearing.

(Aug. 11, 1916, ch. 313, part C, § 12, 39 Stat. 487; Feb. 23, 1923, ch. 106, 42 Stat. 1283; Mar. 2, 1931, ch. 366, § 7, 46 Stat. 1464.)

AMENDMENTS

1931—Act Mar. 2, 1931, inserted "or his designated representative" after "Secretary of Agriculture" throughout.

1923—Act Feb. 23, 1923, inserted the words "inspect, sample or" preceding "classify" wherever appearing.

§ 254. Discrimination by warehouseman prohibited

Every warehouseman conducting a warehouse licensed under this chapter shall receive for storage therein, so far as its capacity permits, any agricultural product of the kind customarily stored therein by him which may be tendered to him in a suitable condition for warehousing, in the usual manner in the ordinary and usual course of business, without making any discrimination between persons desiring to avail themselves of warehouse facilities.

(Aug. 11, 1916, ch. 313, part C, § 13, 39 Stat. 488.)

§ 255. Deposits of products deemed subject to chapter

Any person who deposits agricultural products for storage in a warehouse licensed under this chapter shall be deemed to have deposited the same subject to the terms of this chapter and the rules and regulations prescribed thereunder.

(Aug. 11, 1916, ch. 313, part C, § 14, 39 Stat. 488.)

§ 256. Inspection and grading of products stored

Any fungible agricultural product stored for interstate or foreign commerce, or in any place under the exclusive jurisdiction of the United States, in a warehouse licensed under this chapter, shall be inspected and graded by a person duly licensed to grade the same under this chapter.

(Aug. 11, 1916, ch. 313, part C, § 15, 39 Stat. 488; Feb. 23, 1923, ch. 106, 42 Stat. 1283.)

AMENDMENTS

1923—Act Feb. 23, 1923, eliminated words "That grain, flax-seed or".

§ 257. Standards for agricultural products

The Secretary of Agriculture is authorized, from time to time, to establish and promulgate standards for agricultural products by which their quality or value may be judged or determined: *Provided*, That the standards for any agricultural products which have been, or which in future may be, established by or under authority or any other Act of Congress shall be, and are, adopted for the purposes of this chapter as the official standards of the United States for the agricultural products to which they relate.

(Aug. 11, 1916, ch. 313, part C, § 19, 39 Stat. 489; Feb. 23, 1923, ch. 106, 42 Stat. 1284.)

AMENDMENTS

1923—Act Feb. 23, 1923, omitted from the first sentence after the word "products", the phrase "in this chapter defined."

§ 258. Mingling products stored

Every warehouseman conducting a warehouse licensed under this chapter shall keep the agricultural products therein of one depositor so far separate from agricultural products of other depositors, and from other agricultural products of the same depositor for which a separate receipt has been issued, as to permit at all times the identification and redelivery of the agricultural products deposited; but if authorized by agreement or by custom, a warehouseman may mingle fungible agricultural products with other agricultural products of the same kind and grade, and shall be severally liable to each depositor for the care and redelivery of his share of such mass, to the same extent and under the same circumstances as if the agricultural products had been kept separate, but he shall at no time while they are in his custody mix fungible agricultural products of different grades.

(Aug. 11, 1916, ch. 313, part C, § 16, 39 Stat. 488.)

§ 259. Receipts for products stored

For all agricultural products stored for interstate or foreign commerce, or in any place under the exclusive jurisdiction of the United States, in a warehouse licensed under this chapter original receipts shall be issued by the warehouseman conducting the same, but no receipts shall be issued except for agricultural products

actually stored in the warehouse at the time of the issuance thereof.

(Aug. 11, 1916, ch. 313, part C, § 17, 39 Stat. 488.)

§ 260. Contents of receipts

Every receipt issued for agricultural products stored in a warehouse licensed under this chapter shall embody within its written or printed terms (a) the location of the warehouse in which the agricultural products are stored; (b) the date of issue of the receipt; (c) the consecutive number of the receipt; (d) a statement whether the agricultural products received will be delivered to the bearer, to a specified person, or to a specified person or his order; (e) the rate of storage charges; (f) a description of the agricultural products received, showing the quantity thereof, or, in case of agricultural products customarily put up in bales or packages, a description of such bales or packages by marks, numbers, or other means of identification and the weight of such bales or packages; (g) the grade or other class of the agricultural products received and the standard or description in accordance with which such classification has been made: *Provided,* That such grade or other class shall be stated according to the official standard of the United States applicable to such agricultural products as the same may be fixed and promulgated under authority of law: *Provided further,* That until such official standards of the United States for any agricultural product or products have been fixed and promulgated, the grade or other class thereof may be stated in accordance with any recognized standard or in accordance with such rules and regulations not inconsistent herewith as may be prescribed by the Secretary of Agriculture; (h) a statement that the receipt is issued subject to this chapter and the rules and regulations prescribed thereunder; (i) if the receipt be issued for agricultural products of which the warehouseman is owner, either solely or jointly or in common with others, the fact of such ownership; (j) a statement of the amount of advances made and of liabilities incurred for which the warehouseman claims a lien: *Provided,* That if the precise amount of such advances made or of such liabilities incurred be at the time of the issue of the receipt unknown to the warehouseman or his agent who issues it, a statement of the fact that advances have been made or liabilities incurred and the purpose thereof shall be sufficient; (k) such other terms and conditions within the limitations of this chapter as may be required by the Secretary of Agriculture; and (*l*) the signature of the warehouseman, which may be made by his authorized agent: *Provided,* That unless otherwise required by the law of the State in which the warehouse is located, when requested by the depositor of other than fungible agricultural products, a receipt omitting compliance with subdivision (g) of this section may be issued: *Provided, however,* That the Secretary of Agriculture may in his discretion require that such receipt have plainly and conspicuously embodied in its written or printed terms a provision that such receipt is not negotiable.

(Aug. 11, 1916, ch. 313, part C, § 18, 39 Stat. 488; July 24, 1919, ch. 26, 41 Stat. 266; Feb. 23, 1923, ch. 106, 42 Stat. 1284.)

AMENDMENTS

1923—Act Feb. 23, 1923, added the last proviso in clause (*l*).

1919—Act July 24, 1919, struck out from provisions in clause (*l*) following "may be issued," "if it has plainly and conspicuously embodied in its written or printed terms a provision that such receipt is not negotiable".

§ 261. Issuance of further receipt with original outstanding

While an original receipt issued under this chapter is outstanding and uncanceled by the warehouseman issuing the same no other or further receipt shall be issued for the agricultural product covered thereby or for any part thereof, except that in the case of a lost or destroyed receipt a new receipt, upon the same terms and subject to the same conditions and bearing on its face the number and date of the receipt in lieu of which it is issued, may be issued upon compliance with the statutes of the United States applicable thereto in places under the exclusive jurisdiction of the United States or upon compliance with the laws of any State applicable thereto in any place not under the exclusive jurisdiction of the United States: *Provided,* That if there be in such case no statute of the United States or law of a State applicable thereto such new receipts may be issued upon the giving of satisfactory security in compliance with the rules and regulations made pursuant to this chapter.

(Aug. 11, 1916, ch. 313, part C, § 20, 39 Stat. 489.)

§ 262. Delivery of products stored on demand; conditions to delivery

A warehouseman conducting a warehouse licensed under this chapter, in the absence of some lawful excuse, shall, without unnecessary delay, deliver the agricultural products stored therein upon a demand made either by the holder of a receipt for such agricultural products or by the depositor thereof if such demand be accompanied with (a) an offer to satisfy the warehouseman's lien; (b) an offer to surrender the receipt, if negotiable, with such indorsements as would be necessary for the negotiation of the receipt; and (c) a readiness and willingness to sign, when the products are delivered, an acknowledgement that they have been delivered if such signature is requested by the warehouseman.

(Aug. 11, 1916, ch. 313, part C, § 21, 39 Stat. 489.)

§ 263. Cancellation of receipt on delivery of product stored

A warehouseman conducting a warehouse licensed under this chapter shall plainly cancel upon the face thereof each receipt returned to him upon the delivery by him of the agricultural products for which the receipt was issued.

(Aug. 11, 1916, ch. 313, part C, § 22, 39 Stat. 490.)

§ 264. Records; reports to Secretary of Agriculture; compliance with provisions of chapter, rules, and regulations

Every warehouseman conducting a warehouse licensed under this chapter shall keep in a place of safety complete and correct records of all agricultural products stored therein and withdrawn therefrom, of all warehouse receipts issued by him, and of the receipts returned to and canceled by him, shall make reports to the Secretary of Agriculture concerning such warehouse and the condition, contents, operation, and business thereof in such form and at such times as he may require, and shall conduct said warehouse in all other respects in compliance with this chapter and the rules and regulations made thereunder.

(Aug. 11, 1916, ch. 313, part C, § 23, 39 Stat. 490.)

§ 265. Examination of stored products; publication of findings

The Secretary of Agriculture is authorized to cause examination to be made of any agricultural products stored in any warehouse licensed under this chapter. Whenever, after opportunity for hearing is given to the warehouseman conducting such warehouse, it is determined that he is not performing fully the duties imposed on him by this chapter and the rules and regulations made thereunder, the Secretary may publish his findings.

(Aug. 11, 1916, ch. 313 part C, § 24, 39 Stat. 490.)

§ 266. Publication of investigation of warehousing, names and locations of bonded warehouses, and revocation of licenses

The Secretary of Agriculture from time to time may publish the results of any investigations made under section 243 of this title; and he shall publish the names and locationsof warehouses licensed and bonded and the names and addresses of persons licensed under this chapter and list of all licenses terminated under this chapter and the causes therefor.

(Aug. 11, 1916, ch. 313, part C, § 26, 39 Stat. 490.)

§ 267. Examination of books, records, etc., of warehousemen

The Secretary of Agriculture is authorized through officials, employees, or agents of the Department of Agriculture designated by him to examine all books, records, papers, and accounts of warehouses licensed under this chapter and of the warehousemen conducting such warehouses relating thereto.

(Aug. 11, 1916, ch. 313, part C, § 27, 39 Stat. 490.)

TRANSFER OF FUNCTIONS

All functions of all officers, agencies and employees of the Department of Agriculture were transferred, with certain exceptions, to the Secretary of Agriculture by 1953 Reorg. Plan No. 2, § 1, eff. June 4, 1953, 18 F.R. 3219, 67 Stat. 633, set out as a note under section 2201 of this title.

§ 268. Rules and regulations

The Secretary of Agriculture shall from time to time make such rules and regulations as he may deem necessary for the efficient execution of the provisions of this chapter.

(Aug. 11, 1916, ch. 313, part C, § 28, 39 Stat. 490.)

§ 269. Cooperation with State authorities; authority of Secretary; operation of existing laws

In the discretion of the Secretary of Agriculture he is authorized to cooperate with State officials charged with the enforcement of State laws relating to warehouses, warehousemen, weighers, graders, inspectors, samplers, or classifiers; but the power, jurisdiction, and authority conferred upon the Secretary of Agriculture under this chapter shall be exclusive with respect to all persons securing a license hereunder so long as said license remains in effect. This chapter shall not be construed so as to limit the operation of any statute of the United States relating to warehouses or to warehousemen, weighers, graders, inspectors, samplers, or classifiers now in force in the District of Columbia or in any Territory or other place under the exclusive jurisdiction of the United States.

(Aug. 11, 1916, ch. 313, part C, § 29, 39 Stat. 490; Feb. 23, 1923, ch. 106, 42 Stat. 1285; Mar. 2, 1931, ch. 366, § 9, 46 Stat. 1465.)

AMENDMENTS

1931—Act Mar. 2, 1931, omitted first clause which provided: "Nothing in this chapter shall be construed to conflict with, or to authorize any conflict with, or in any way to impair or limit the effect or operation of the laws of any State relating to warehouses, warehousemen, weighers, graders, inspectors, samplers, or classifiers;", inserted "In the discretion of the Secretary of Agriculture" in first clause of first sentence and "but the power, jurisdiction, and authority conferred upon the Secretary of Agriculture under this chapter shall be exclusive with respect to all persons securing a license hereunder so long as said license remains in effect" in second clause of first section.

1923—Act of Feb. 23, 1923 included among the objects to which the section applied, "inspectors, and samplers," as well as warehouses, warehousemen, weighers, graders and classifiers as originally specified.

§ 270. Punishment for violations; reimbursement of owner of products converted

Every person who shall forge, alter, counterfeit, simulate, or falsely represent, or shall without proper authority use, any license issued by the Secretary of Agriculture, or his designated representative, under this chapter, or who shall violate or fail to comply with any provision of section 250 of this title, or who shall issue or utter a false or fraudulent receipt or certificate, or change in any manner an original receipt or certificate subsequently to issuance by a licensee, or any person who, without lawful authority, shall convert to his own use, or use for purposes of securing a loan, or remove from a licensed warehouse contrary to this chapter or the regulations promulgated thereunder, any agricultural products stored or to be stored in such warehouse, and for which licensed receipts have been or are to be issued, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined not more

than $10,000, or double the value of the products involved if such double value exceeds $10,000, or imprisoned not more than ten years, or both, in the discretion of the court, and the owner of the agricultural products so converted, used, or removed may, in the discretion of the Secretary of Agriculture, be reimbursed for the value thereof out of any fine collected hereunder, by check drawn on the Treasury at the direction of the Secretary of Agriculture for the value of such products to the extent that such owner has not otherwise been reimbursed. Any person who shall draw with intent to deceive, a false sample of, or who shall willfully mutilate or falsely represent a sample drawn under this chapter, or who shall classify, grade, or weigh fraudulently, any agricultural products stored or to be stored under the provisions of this chapter, shall be deemed guilty of a misdemeanor, and upon conviction thereof fined not more than $500, or imprisoned for not more than six months, or both, in the discretion of the court.

(Aug. 11, 1916, ch. 313, part C, § 30, 39 Stat. 490; Feb. 23, 1923, ch. 106, 42 Stat. 1285; Mar. 2, 1931, ch. 366, § 10, 46 Stat. 1465.)

AMENDMENTS

1931—Act Mar. 2, 1931 inserted "or his designated representative" after "Secretary of Agriculture"; inserted, "or change in any manner an original receipt or certificate subsequently to issuance by licensee" after "certificate"; and substituted "ten" for "one", all in first sentence.

1923—Act Feb. 23, 1923, amended section generally.

CROSS REFERENCES

Misdemeanor defined, see section 1 of Title 18, Crimes and Criminal Procedure.

§ 271. Employment of temporary personnel

The Secretary of Agriculture is authorized, in his discretion, to employ qualified persons not regularly in the service of the United States for temporary assistance in carrying out the purposes of this chapter.

(Aug. 11, 1916, ch. 313, part C, § 31, 39 Stat. 491.)

§ 272. Separability of provisions

If any clause, sentence, paragraph, or part of this chapter shall, for any reason, be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, or part thereof directly involved in the controversy in which such judgment shall have been rendered.

(Aug. 11, 1916, ch. 313, part C, § 32, 39 Stat. 491.)

§ 273. Rights reserved

The right to amend, alter or repeal this chapter is expressly reserved.

(Aug. 11, 1916, ch. 313, part C, § 33, 39 Stat. 491.)

CHAPTER 11—HONEYBEES

Sec.

281. Importation of honeybees and honeybee semen restricted.
(a) Honeybees.
(b) Honeybee semen.
(c) Rules and regulations.
(d) Destruction or immediate exportation of nonexcepted honeybees or honeybee semen offered for import or intercepted.
(e) Definition.
282. Punishment for unlawful importation.
283. Propagation of bee-breeding stock.
284. Eradication and control of undesirable species and subspecies.
(a) Operations in United States.
(b) Cooperation with certain foreign governments; measure and character; consultation with Secretary of State.
(c) Responsibility for authority to carry out operations.
285. Uses of funds.
286. Authorization of appropriations.

§ 281. Importation of honeybees and honeybee semen restricted.

(a) Honeybees

In order to prevent the introduction and spread of diseases and parasites harmful to honeybees, and the introduction of genetically undesirable germ plasm of honeybees, the importation into the United States of all honeybees is prohibited, except that honeybees may be imported into the United States—

(1) by the United States Department of Agriculture for experimental or scientific purposes, or

(2) from countries determined by the Secretary of Agriculture—

(A) to be free of diseases or parasites harmful to honeybees, and undesirable species or subspecies of honeybees; and

(B) to have in operation precautions adequate to prevent the importation of honeybees from other countries where harmful diseases or parasites, or undesirable species or subspecies, of honeybees exist.

(b) Honeybee semen

Honeybee semen may be imported into the United States only from countries determined by the Secretary of Agriculture to be free of undesirable species or subspecies of honeybees, and which have in operation precautions adequate to prevent the importation of such undesirable honeybees and their semen.

(c) Rules and regulations

Honeybees and honeybee semen imported pursuant to subsections (a) and (b) of this section shall be imported under such rules and regulations as the Secretary of Agriculture and the Secretary of the Treasury shall prescribe.

(d) Destruction or immediate exportation of nonexcepted honeybees or honeybee semen offered for import or intercepted

Except with respect to honeybees and honeybee semen imported pursuant to subsections (a) and (b) of this section, all honeybees or honeybee semen offered for import or intercepted entering the United States shall be destroyed or immediately exported.

71-999 O - 77 - vol. 1 - 67

(e) Definition

As used in this chapter, the term "honeybee" means all life stages and the germ plasm of honeybees of the genus Apis, except honeybee semen.

(Aug. 31, 1922, ch. 301, § 1, 42 Stat. 833; July 19, 1962, Pub. L. 87-539, § 1, 76 Stat. 169; June 25, 1976, Pub. L. 94-319, § 1, 90 Stat. 709.)

AMENDMENTS

1976—Pub. L. 94-319 incorporated existing provisions, which related only to honeybees, into subsecs. (a) to (e) relating to honeybees and honeybee semen, making honeybee provisions applicable to all life stages and the germ plasm of honeybees instead of only to honeybees in the adult stage, restating the purpose of prohibiting the importation of honeybees and restating the conditions to be determined by the Secretary of Agriculture with respect to countries from which honeybees may be imported.

1962—Pub. L. 87-539 enlarged the prohibition against the importation of honeybees to include the honeybee of the genus Apis instead of only the honeybee Apis mellifica and restricted permission to import the honeybee to countries which take adequate precautions to prevent the importation of honeybees from countries where dangerous diseases exist.

SHORT TITLE

Act Aug. 31, 1922, which is classified to this section and sections 282 and 284 to 286 of this title, is popularly known as the "Honeybee Act".

TRANSFER OF FUNCTIONS

All functions of all officers, agencies and employees of the Department of Agriculture were transferred, with certain exceptions, to the Secretary of Agriculture by 1953 Reorg. Plan No. 2, § 1, eff. June 4, 1953, 18 F.R. 3219, 67 Stat. 633, set out as a note under section 2201 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 282 of this title.

§ 282. Punishment for unlawful importation

Any person who violates any provision of section 281 of this title or any regulation issued under it is guilty of an offense against the United States and shall, upon conviction, be fined not more than $1,000, or imprisoned for not more than one year, or both.

(Aug. 31, 1922, ch. 301, § 2, 42 Stat. 834; June 25, 1976, Pub. L. 94-319, § 2, 90 Stat. 709.)

AMENDMENTS

1976—Pub. L. 94-319 added reference to regulations, substituted characterization of violation as offense against the United States for characterization as a misdemeanor, increased maximum fine to $1,000 from $500 and struck provision relating to discretion of the court.

§ 283. Propagation of bee-breeding stock

The Secretary of Agriculture may propagate bee-breeding stock.

(Sept. 21, 1944, ch. 412, title I, § 103, 58 Stat. 735; Oct. 31, 1951, ch. 654, § 3(1), 65 Stat. 708.)

CODIFICATION

This section was not enacted as part of act Aug. 31, 1922, which comprises this chapter.

AMENDMENTS

1951—Act Oct. 31, 1951, struck out provisions relating to sale of surplus bee-breeding stock, and the fixing of rates and disposition of proceeds in connection therewith.

SIMILAR PROVISIONS

Provisions similar to this section were contained in the following prior Department of Agriculture Appropriation Acts:

June 28, 1944, ch. 296, § 1, 58 Stat. 439.

July 12, 1943, ch. 215, § 1, 57 Stat. 407.

§ 284. Eradication and control of undesirable species and subspecies

(a) Operations in United States

The Secretary of Agriculture either independently or in cooperation with States or political subdivisions thereof, farmers' associations, and similar organizations and individuals, is authorized to carry out operations or measures in the United States to eradicate, suppress, control, and to prevent or retard the spread of undesirable species and subspecies of honeybees.

(b) Cooperation with certain foreign governments; measure and character; consultation with Secretary of State

The Secretary of Agriculture is authorized to cooperate with the Governments of Canada, Mexico, Guatemala, Belize, Honduras, El Salvador, Nicaragua, Costa Rica, Panama, and Colombia, or the local authorities thereof, in carrying out necessary research, surveys, and control operations in those countries in connection with the eradication, suppression, control, and prevention or retardation of the spread of undesirable species and subspecies of honeybees, including but not limited to Apis mellifera adansonii, commonly known as the African or Brazilian honeybee. The measure and character of cooperation carried out under this subsection on the part of such countries, including the expenditure or use of funds appropriated pursuant to this chapter, shall be such as may be prescribed by the Secretary of Agriculture. Arrangements for the cooperation authorized by this subsection shall be made through and in consultation with the Secretary of State.

(c) Responsibility for authority to carry out operations

In performing the operations or measures authorized in this chapter, the cooperating foreign country, State, or local agency shall be responsible for the authority to carry out such operations or measures on all lands and properties within the foreign country or State, other than those owned or controlled by the Federal Government of the United States, and for such other facilites and means as in the discretion of the Secretary of Agriculture are necessary.

(Aug. 31, 1922, ch. 301, § 3, as added June 25, 1976, Pub. L. 94-319, § 3, 90 Stat. 709.)

INDEMNIFICATION FOR BEEKEEPERS

Section 804 of Pub. L. 91-524, title VIII, Nov. 30, 1970, 84 Stat. 1382 as amended by Pub. L. 93-86, § 1(27)(A), Aug. 10, 1973, 87 Stat. 237, provided that:

"(a) The Secretary of Agriculture is authorized to make indemnity payments to beekeepers who through no fault of their own have suffered losses of honey bees after January 1, 1967, as a result of utilization of

economic poisons near or adjacent to the property on which the beehives of such beekeepers were located.

"(b) The amount of the indemnity payment in the case of any beekeeper shall be determined on the basis of the net loss sustained by such beekeeper as a result of the loss of his honey bees.

"(c) Indemnity payments shall be made only in cases in which the loss occurred as a result of the use of economic poisons which had been registered and approved for use by the Federal Government.

"(d) There are hereby authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.

"(e) The Secretary is authorized to issue such regulations as he deems necessary to carry out the purposes of this section.

"(f) The provisions of this section shall not be in effect after December 31, 1977."

§ 285. Uses of funds

Funds appropriated to carry out the provisions of this chapter may also be used for printing and binding without regard to section 501 of title 44 for employment, by contract or otherwise, of civilian nationals of Canada, Mexico, Guatemala, Belize, Honduras, El Salvador, Nicaragua, Costa Rica, Panama, and Colombia for services abroad, and for the construction and operation of research laboratories, quarantine stations, and other buildings and facilities.

(Aug. 31, 1922, ch. 301, § 4, as added June 25, 1976, Pub. L. 94-319, § 3, 90 Stat. 710.)

§ 286. Authorization of appropriations

There are hereby authorized to be appropriated such sums as may be necessary to carry out the provisions of this chapter.

(Aug. 31, 1922, ch. 301, § 5, as added June 25, 1976, Pub. L. 94-319, § 3, 90 Stat. 710.)

CHAPTER 12—ASSOCIATIONS OF AGRICULTURAL PRODUCTS PRODUCERS

Sec.
291. Authorization of associations; powers.
292. Monopolizing or restraining trade and unduly enhancing prices prohibited; remedy and procedure.

§ 291. Authorization of associations; powers

Persons engaged in the production of agricultural products as farmers, planters, ranchmen, dairymen, nut or fruit growers may act together in associations, corporate or otherwise, with or without capital stock, in collectively processing, preparing for market, handling, and marketing in interstate and foreign commerce, such products of persons so engaged. Such associations may have marketing agencies in common; and such associations and their members may make the necessary contracts and agreements to effect such purposes: *Provided, however,* That such associations are operated for the mutual benefit of the members thereof, as such producers, and conform to one or both of the following requirements:

First. That no member of the association is allowed more than one vote because of the amount of stock or membership capital he may own therein, or,

Second. That the association does not pay dividends on stock or membership capital in excess of 8 per centum per annum.

And in any case to the following:

Third. That the association shall not deal in the products of nonmembers to an amount greater in value than such as are handled by it for members.

(Feb. 18, 1922, ch. 57, § 1, 42 Stat. 388.)

Cross References

Agricultural Fair Practices Act of 1967, association of producers as meaning associations referred to in this section, see section 2302 of this title.

"Cooperative association of producers" defined, see section 2 of this title.

Cooperative marketing, see sections 451 to 457 of this title.

Section Referred to in Other Sections

This section is referred to in sections 2, 457, 608c, 2302 of this title.

§ 292. Monopolizing or restraining trade and unduly enhancing prices prohibited; remedy and procedure

If the Secretary of Agriculture shall have reason to believe that any such association monopolizes or restrains trade in interstate or foreign commerce to such an extent that the price of any agricultural product is unduly enhanced by reason thereof, he shall serve upon such association a complaint stating his charge in that respect, to which complaint shall be attached, or contained therein, a notice of hearing, specifying a day and place not less than thirty days after the service thereof, requiring the association to show cause why an order should not be made directing it to cease and desist from monopolization or restraint of trade. An association so complained of may at the time and place so fixed show cause why such order should not be entered. The evidence given on such a hearing shall be taken under such rules and regulations as the Secretary of Agriculture may prescribe, reduced to writing, and made a part of the record therein. If upon such hearing the Secretary of Agriculture shall be of the opinion that such association monopolizes or restrains trade in interstate or foreign commerce to such an extent that the price of any agricultural product is unduly enhanced thereby, he shall issue and cause to be served upon the association an order reciting the facts found by him, directing such association to cease and desist from monopolization or restraint of trade. On the request of such association or if such association fails or neglects for thirty days to obey such order, the Secretary of Agriculture shall file in the district court in the judicial district in which such association has its principal place of business a certified copy of the order and of all the records in the proceeding, together with a petition asking that the order be enforced, and shall give notice to the Attorney General and to said association of such filing. Such district court shall thereupon have jurisdiction to enter a decree affirming, modifying, or setting aside said order, or enter such other decree as the court may deem equitable, and may make rules as to pleadings and proceedings to be had in considering such order. The place of trial may, for cause or by consent of parties, be changed as in other causes.

The facts found by the Secretary of Agriculture and recited or set forth in said order shall

be prima facie evidence of such facts, but either party may adduce additional evidence. The Department of Justice shall have charge of the enforcement of such order. After the order is so filed in such district court and while pending for review therein the court may issue a temporary writ of injunction forbidding such association from violating such order or any part thereof. The court may, upon conclusion of its hearing, enforce its decree by a permanent injunction or other appropriate remedy. Service of such complaint and of all notices may be made upon such association by service upon any officer or agent thereof engaged in carrying on its business, or on any attorney authorized to appear in such proceedings for such association, and such service shall be binding upon such association, the officers, and members thereof.

(Feb. 18, 1922, ch. 57, § 2, 42 Stat. 388.)

CROSS REFERENCES

"Cooperative association of producers" defined, see section 2 of this title.

FEDERAL RULES OF CIVIL PROCEDURE

Application of Rules of Civil Procedure, see Rule 81, Title 28, Appendix, Judiciary and Judicial Procedure.
Preliminary and permanent injunctions, see Rule 65.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2, 457, 608c of this title.

CHAPTER 13—AGRICULTURAL AND MECHANICAL COLLEGES

SUBCHAPTER I—COLLEGE-AID LAND APPROPRIATION

Sec.
301. Land grant aid of colleges.
302. Method of apportionment and selection; issuance of land scrip.
303. Management expenses paid by State.
304. Investment of proceeds of sale of land or scrip.
305. Conditions of grant.
306. Repealed.
307. Fees for locating land scrip.
308. Reports by State governors of sale of scrip.

SUBCHAPTER II—COLLEGE-AID ANNUAL APPROPRIATION

321. Secretary of Health, Education, and Welfare to administer annual college-aid appropriation.
322. Annual appropriation.
323. Racial discrimination by colleges restricted.
324. Time, manner, etc., of annual payments.
325. State to replace funds misapplied, etc.; restrictions on use of funds; reports by colleges.
326. Ascertainment and certification of amounts due States; certificates withheld from States; appeal to Congress.
326a. Annual appropriation for Virgin Islands and Guam.
327. Repealed.
328. Power to amend, repeal, etc., reserved.
329. Additional appropriation for agricultural colleges.

SUBCHAPTER III—RETIREMENT OF EMPLOYEES

331. Retirement of land-grant college employees.

SUBCHAPTER IV—AGRICULTURAL EXTENSION WORK APPROPRIATION

341. Cooperative extension work by colleges.
342. Cooperative agricultural extension work; cooperation with Secretary of Agriculture.
343. Appropriations; distribution; allotment and apportionment; Federal Extension Service.
343a to 343c-1. Repealed.
343d. Transferred.
343d-1 to 343g. Repealed.
344. Ascertainment of entitlement; time and manner of payment; reports of receipts and disbursements.
345. Replacement of diminished, lost or misapplied funds; restrictions on use; reports of colleges.
346. Report of nonentitlement to President; retention in Treasury; appeal and disposition.
347. Repealed.
347a. Disadvantaged agricultural areas.
(a) Congressional findings.
(b) Appropriation.
(c) Assistance.
(d) Allocation of funds.
(e) Appropriation as additional; limitation on amount.
348. Rules and regulations.
349. "State" defined.

SUBCHAPTER I—COLLEGE-AID LAND APPROPRIATION

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 322, 323, 329, 331, 341, 361a, 390b, 2664 of this title; title 16 section 582a-1; title 22 section 2220a; title 42 sections 1476, 1961a; title 43 section 179.

SUBCHAPTER REFERRED TO IN D.C. CODE

This subchapter is referred to in sections 31-1607, 31-1608, 31-1609, 31-1611, 31-1701, 31-1719 of the District of Columbia Code.

§ 301. Land grant aid of colleges

There is granted to the several States, for the purposes hereinafter mentioned in this subchapter, an amount of public land, to be apportioned to each State a quantity equal to thirty thousand acres for each Senator and Representative in Congress to which the States are respectively entitled by the apportionment under the census of 1860: *Provided,* That no mineral lands shall be selected or purchased under the provisions of said sections.

(July 2, 1862, ch. 130, § 1, 12 Stat. 503.)

CODIFICATION

Act July 2, 1862, with the exception of section 7, was not incorporated into the Revised Statutes, probably because the grants made thereby were regarded as executed, and the provisions incidental thereto as temporary. By act Mar. 3, 1883, ch. 102, 22 Stat. 484, however, section 4 of the original act was amended to read as set out under section 304 of this title.

SHORT TITLE

The act of July 2, 1862, ch. 130, as amended, which is classified to this subchapter, is popularly known as the "Morrill Act" and also as the "First Morrill Act".

COLLEGE OF THE VIRGIN ISLANDS AND UNIVERSITY OF GUAM; LAND-GRANT STATUS; AUTHORIZATION OF APPROPRIATIONS

Section 506(a), (b) of Pub. L. 92-318, title V, June 23, 1972, 86 Stat. 350, provided that:

"(a) The College of the Virgin Islands and the University of Guam shall be considered land-grant colleges established for the benefit of agriculture and mechanic arts in accordance with the provisions of the Act of July 2, 1862, as amended (12 Stat. 503; 7 U.S.C. 301-305, 307, 308).

"(b) In lieu of extending to the Virgin Islands and Guam those provisions of the Act of July 2, 1862, as amended, relating to donations of public land or land

scrip for the endowment and maintenance of colleges for the benefit of agriculture and the mechanic arts, there is authorized to be appropriated $3,000,000 to the Virgin Islands and $3,000,000 to Guam. Amounts appropriated pursuant to this section shall be held and considered to have been granted to the Virgin Islands and Guam subject to the provisions of that Act applicable to the proceeds from the sale of land or land scrip."

EXCHANGE OF LAND IN MISSOURI

Pub. L. 85-262, Sept. 4, 1957, 71 Stat. 607, provided: "That, notwithstanding the provisions of the Act entitled 'An Act donating public lands to the several States and Territories which may provide colleges for the benefit of agriculture and the mechanic arts', approved July 2, 1862 (7 U.S.C. secs. 301-308), the State of Missouri is authorized to convey to the United States all right, title, and interest of such State in and to any land granted to such State under authority of such Act of July 2, 1862, which is located within the exterior boundaries of the national forests situated within such State, and, in exchange therefor, the Secretary of Agriculture is authorized to convey to the State of Missouri all right, title, and interest of the United States in and to not to exceed an equal value of national forest lands (as determined by the Secretary) situated within such State.

"SEC. 2. Any exchange authorized by the first section of this Act shall be made in accordance with the applicable provisions of section 7 of the Act of March 1, 1911, commonly referred to as the Weeks Law (16 U.S.C., sec. 516), and the applicable provisions of the Act entitled 'An Act to consolidate national forest lands', approved March 20, 1922 (16 U.S.C., secs. 485 and 486).

"SEC. 3. Any land conveyed to the State of Missouri under authority of this Act shall, upon acceptance of such conveyance by such State, be held and considered to be granted to such State subject to the provisions of the Act of July 2, 1862, referred to in the first section of this Act."

COOPERATION IN PLACEMENT OF DOMESTIC FARM LABOR

Section 2(b) of act Apr. 28, 1947, ch. 43, 61 Stat. 55, provided: "The Secretary of Agriculture and the Secretary of Labor shall take such action as may be necessary to assure maximum cooperation between the agricultural extension services of the land-grant colleges and the State public employment agencies in the recruitment and placement of domestic farm labor and in the keeping of such records and information with respect thereto as may be necessary for the proper and efficient administration of the State unemployment compensation laws and of title V of the Servicemen's Readjustment Act of 1944, as amended (58 Stat. 295)."

ADMISSION OF ALASKA AS STATE; GRANTS NOT TO EXTEND TO ALASKA

Admission of Alaska into the Union was accomplished Jan. 3, 1959, upon issuance of Proc. No. 3269, Jan. 3, 1959, 24 F.R. 81, 73 Stat. c16, as required by sections 1 and 8(c) of Pub. L. 85-508, July 7, 1958, 72 Stat. 339, set out as notes preceding section 21 of Title 48, Territories and Insular Possessions.

Land grant under Alaska Statehood provisions as being in lieu of grant of acreage under sections 301 to 305, 307, 308 of this title (declared not to extend to Alaska), see section 6(*l*) of Pub. L. 85-508, set out as a note preceding section 21 of Title 48.

CROSS REFERENCES

Agricultural experiment stations, see section 361a et seq. of this title.

Agricultural extension work appropriation, see sections 341 to 343, 344 to 346, and 348 of this title.

College-aid annual appropriation, see sections 321 to 326 and 328 of this title.

Research and study grants to land-grant colleges for farm housing research, see note set out under section 1476 of Title 42, The Public Health and Welfare.

§ 302. Method of apportionment and selection; issuance of land scrip

The land aforesaid, after being surveyed, shall be apportioned to the several States in sections or subdivisions of sections, not less than one-quarter of a section; and whenever there are public lands in a State subject to sale at private entry at $1.25 per acre, the quantity to which said State shall be entitled shall be selected from such lands within the limits of such State, and the Secretary of the Interior is directed to issue to each of the States in which there is not the quantity of public lands subject to sale at private entry at $1.25 per acre, to which said State may be entitled under the provisions of this subchapter, land scrip to the amount in acres for the deficiency of its distributive share; said scrip to be sold by said States and the proceeds thereof applied to the uses and purposes prescribed in said sections, and for no other use or purpose whatsoever: *Provided,* That in no case shall any State to which land scrip may thus be issued be allowed to locate the same within the limits of any other State, or of any Territory of the United States, but their assignees may thus locate said land scrip upon any of the unappropriated lands of the United States subject to sale at private entry at $1.25, or less, per acre: *And provided further,* That not more than one million acres shall be located by such assignees in any one of the States: *And provided further,* That no such location shall be made before July 2, 1863.

(July 2, 1862, ch. 130, § 2, 12 Stat. 503.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 304 of this title.

§ 303. Management expenses paid by State

All the expenses of management, superintendence, and taxes from date of selection of said lands, previous to their sales, and all expenses incurred in the management and disbursement of the moneys which may be received therefrom, shall be paid by the States to which they may belong, out of the treasury of said States, so that the entire proceeds of the sale of said lands shall be applied without any diminution whatever to the purposes in sections 304, 305, 307 and 308 of this title mentioned.

(July 2, 1862, ch. 130, § 3, 12 Stat. 504.)

§ 304. Investment of proceeds of sale of land or scrip

All moneys derived from the sale of lands as provided in section 302 of this title by the States to which lands are apportioned and from the sales of land scrip provided for in said section shall be invested in bonds of the United States or of the States or some other safe bonds; or the same may be invested by the States having no State bonds, in any manner after the legislatures of such States shall have assented thereto and engaged that such funds shall yield a fair and reasonable rate of return, to be fixed by the State legislatures, and that the principal thereof shall forever remain unimpaired: *Provided,* That the moneys so invest-

ed or loaned shall constitute a perpetual fund, the capital of which shall remain forever undiminished (except so far as may be provided in section 305 of this title), and the interest of which shall be inviolably appropriated, by each State which may take and claim the benefit of this subchapter, to the endowment, support, and maintenance of at least one college where the leading object shall be, without excluding other scientific and classical studies and including military tactics, to teach such branches of learning as are related to agriculture and the mechanic arts, in such manner as the legislatures of the States may respectively prescribe, in order to promote the liberal and practical education of the industrial classes in the several pursuits and professions in life.

(July 2, 1862, ch. 130, § 4, 12 Stat. 504; Mar. 3, 1883, ch. 102, 22 Stat. 484; Apr. 13, 1926, ch. 130, 44 Stat. 247.)

AMENDMENTS

1926—Act Apr. 13, 1926, substituted "bonds" for "stocks" and "a fair and reasonable rate of return, to be fixed by the State Legislatures" for "not less than 5 per centum upon the amount so invested", before proviso.

1883—Act Mar. 3, 1883, added after words "other safe stocks" words "or the same may be invested by the States having no State stocks, in any other manner after the legislatures of such States shall have assented thereto, and engaged that such funds shall" and substituted "yield" for "yielding", "principal" for "capital" and "unimpaired" for "undiminished".

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 305 of this title.

§ 305. Conditions of grant

The grant of land and land scrip hereby authorized shall be made on the following conditions, to which, as well as to the provisions contained in said sections, the previous assent of the several States shall be signified by legislative acts:

First. If any portion of the fund invested, as provided by section 304 of this title, or any portion of the interest thereon, shall, by any action or contingency, be diminished or lost, it shall be replaced by the State to which it belongs, so that the capital of the fund shall remain forever undiminished; and the annual interest shall be regularly applied without diminution to the purposes mentioned in section 304 of this title, except that a sum, not exceeding 10 per centum upon the amount received by any State under the provisions of this subchapter, may be expended for the purchase of lands for sites or experimental farms, whenever authorized by the respective legislatures of said States.

Second. No portion of said fund, nor the interest thereon, shall be applied, directly or indirectly, under any pretense whatever, to the purchase, erection, preservation, or repair of any building or buildings.

Third. Any State which may take and claim the benefit of the provisions of this subchapter shall provide, within five years from the time of its acceptance as provided in subdivision seven of this section, at least not less than one college, as described in section 304 of this title, or the grant to such State shall cease; and said State shall be bound to pay the United States the amount received of any lands previously sold, and the title to purchasers under the State shall be valid.

Fourth. An annual report shall be made regarding the progress of each college, recording any improvements and experiments made, with their cost and results, and such other matters, including State industrial and economical statistics, as may be supposed useful; one copy of which shall be transmitted by mail, by each, to all the other colleges which may be endowed under the provisions of this subchapter, and also one copy to the Secretary of the Interior.

Fifth. When lands shall be selected from those which have been raised to double the minimum price, in consequence of railroad grants, they shall be computed to the States at the maximum price, and the number of acres proportionally diminished.

Sixth. No State while in a condition of rebellion or insurrection against the Government of the United States shall be entitled to the benefit of the provisions of this subchapter.

Seventh. No State shall be entitled to the benefits of the provisions of this subchapter unless it shall express its acceptance thereof by its legislature within three years from July 23, 1866: *Provided,* That when any Territory shall become a State and be admitted into the Union, such new State shall be entitled to the benefits of the provisions of said sections, by expressing the acceptance therein required within three years from the date of its admission into the Union, and providing the college or colleges within five years after such acceptance, as heretofore prescribed in this chapter.

(July 2, 1862, ch. 130, § 5, 12 Stat. 504; July 23, 1866, ch. 209, 14 Stat. 208; Mar. 3, 1873, ch. 231, § 3, 17 Stat. 559.)

REPEALS

Subd. fourth was repealed in part by act March 3, 1873, which provided in part: "That all laws and parts of laws permitting the transmission by mail of any free matter whatever be, and the same are hereby, repealed from and after June thirtieth, eighteen hundred and seventy-three."

Subd. seventh formerly contained a proviso which read as follows: *"Provided further,* That any State which has prior to July 23, 1866, expressed its acceptance of the foregoing provisions of this chapter shall have the period of five years within which to provide at least one college, as described in the fourth section of said act, after the time for providing said college, according to the act of July second, eighteen hundred and sixty-two shall have expired."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 304 of this title.

§ 306. Repealed. Dec. 16, 1930, ch. 14, § 1, 46 Stat. 1028

Section, act July 2, 1862, ch. 130, § 6, 12 Stat. 505, related to time of location of land scrip.

§ 307. Fees for locating land scrip

The land officers shall receive the same fees for locating land scrip issued under the provisions of this subchapter as was on July 2, 1862, allowed for the location of military bounty land warrants under laws existing at that time: *Provided,* That their maximum compensation shall not be thereby increased.

(July 2, 1862, ch. 130, § 7, 12 Stat. 505.)

§ 308. Reports by State governors of sale of scrip

The governors of the several States to which scrip shall be issued under the provisions of this subchapter shall be required to report annually to Congress all sales made of such scrip until the whole shall be disposed of, the amount received for the same, and what appropriation has been made of the proceeds.

(July 2, 1862, ch. 130, § 8, 12 Stat. 505.)

SUBCHAPTER II—COLLEGE-AID ANNUAL APPROPRIATION

Subchapter Referred to in Other Sections

This subchapter is referred to in sections 331, 341, 2664 of this title; title 22 section 2220a; title 43 section 179.

Subchapter Referred to in D.C. Code

This subchapter is referred to in sections 31-1607, 31-1719 of the District of Columbia Code.

§ 321. Secretary of Health, Education, and Welfare to administer annual college-aid appropriation

The Secretary of Health, Education, and Welfare is charged with the proper administration of this subchapter.

(Aug. 30, 1890, ch. 841, § 4, 26 Stat. 419; 1939 Reorg. Plan No. 1, §§ 201, 204, eff. July 1, 1939, 4 F.R. 2728, 53 Stat. 1424; 1953 Reorg. Plan No. 1, §§ 5, 8, eff. Apr. 11, 1953, 18 F.R. 2053, 67 Stat. 631.)

Codification

Section constitutes part of section 4 of act Aug. 30, 1890. Remainder of section 4 is classified to section 326 of this title.

Short Title

The act of Aug. 30, 1890, ch. 841, as amended, which is classified to this subchapter, is popularly known as the "Agricultural College Act of 1890" and also as the "Second Morrill Act".

Transfer of Functions

All functions of the Federal Security Administrator were transferred to the Secretary of Health, Education, and Welfare and all agencies of the Federal Security Agency were transferred to the Department of Health, Education, and Welfare by section 5 of 1953 Reorg. Plan No. 1, set out in the Appendix to Title 5, Government Organization and Employees. The Federal Security Agency and the office of Administrator were abolished by section 8 of 1953 Reorg. Plan No. 1.

The Office of Education was originally established in the Department of the Interior from which it was transferred to the Federal Security Agency by 1939 Reorg. Plan No. I, which is set out in the Appendix to Title 5, Government Organization and Employees.

Reclamation Fund

Moneys received from the sale and disposal of public lands in certain States and Territories were appropriated to a "reclamation fund", for the reclamation of arid and semi-arid lands, by the Reclamation Act of June 17, 1902, ch. 1093, § 1, 32 Stat. 388, and, by a proviso annexed to that section, in case the receipts from the sale and disposal of other public lands are insufficient to meet the requirements for the support of agricultural colleges under this act, the sum necessary is to be provided from any moneys in the Treasury not otherwise appropriated. See section 391 et seq. of Title 43, Public Lands.

Cross References

Additional aid for agricultural college extension work, see sections 341 to 343, 344 to 346, and 347a to 349 of this title.

College land-aid appropriation, see sections 301 to 305, 307, and 308 of this title.

§ 322. Annual appropriation

There is annually appropriated, out of any money in the Treasury not otherwise appropriated, to be paid as provided in section 324 of this title, to each State and Territory for the more complete endowment and maintenance of colleges for the benefit of agriculture and the mechanic arts established in accordance with the provisions of subchapter I of this chapter, $50,000 to be applied only to instruction in agriculture, the mechanic arts, the English language, and the various branches of mathematical, physical, natural, and economic science, with special reference to their applications in the industries of life, and to the facilities for such instruction: *Provided*, That said colleges may use a portion of this money for providing courses for the special preparation of instructors for teaching the elements of agriculture and the mechanic arts.

(Aug. 30, 1890, ch. 841, § 1, 26 Stat. 417; Mar. 4, 1907, ch. 2907, 34 Stat. 1281, 1282.)

Codification

Section constitutes part of section 1 of act Aug. 30, 1890. Remainder of section 1 is classified to section 323 of this title.

Amendments

1907—Act Mar. 4, 1907, increased the amount from "$25,000" to "$50,000", and added the proviso.

Cross References

Additional appropriation for agricultural colleges, see section 329 of this title.

Section Referred to in Other Sections

This section is referred to in section 326a of this title.

§ 323. Racial discrimination by colleges restricted

No money shall be paid out under this subchapter to any State or Territory for the support or maintenance of a college where a distinction of race or color is made in the admission of students, but the establishment and maintenance of such colleges separately for white and colored students shall be held to be a compliance with the provisions of said sections if the funds received in such State or Territory be equitably divided as hereinafter set forth: *Provided*, That in any State in which there has been one college established in pursuance of subchapter I of this chapter, and also in which an educational institution of like character has been established, or may be hereafter established, and is on August 30, 1890, aided by such State from its own revenue, for the education of colored students in agriculture and the mechanic arts, however named or styled, or whether or not it has received money prior to August 30, 1890, under said subchapter I, the legislature of such State may propose and report to the Secretary of the Interior a just and equitable division of the fund to be re-

ceived under this subchapter between one college for white students and one institution for colored students established as aforesaid, which shall be divided into two parts and paid accordingly, and thereupon such institution for colored students shall be entitled to the benefits of said sections and subject to their provisions, as much as it would have been if it had been included under subchapter I of this chapter, and the fulfillment of the foregoing provisions shall be taken as a compliance with the provision in reference to separate colleges for white and colored students.

(Aug. 30, 1890, ch. 841, § 1, 26 Stat. 417.)

CODIFICATION

Section constitutes part of section 1 of act Aug. 30, 1890. Remainder of section 1 is classified to section 322 of this title.

§ 324. Time, manner, etc., of annual payments

The sums appropriated by this subchapter to the States and Territories for the further endowment and support of colleges shall be annually paid on or before the 31st day of October of each year, by the Secretary of the Treasury, upon the warrant of the Secretary of Health, Education, and Welfare, out of the Treasury of the United States, to the State or Territorial treasurer, or to such officer as shall be designated by the laws of such State or Territory to receive the same, who shall, upon the order of the trustees of the college, or the institution for colored students, immediately pay over said sums to the treasurers of the respective colleges or other institutions entitled to receive the same, and such treasurers shall be required to report to the Secretary of Agriculture and to the Secretary of Health, Education, and Welfare, on or before the 1st day of December of each year, a detailed statement of the amount so received and of its disbursement. The grants of moneys authorized by this subchapter are made subject to the legislative assent of the several States and Territories to the purpose of said grants.

(Aug. 30, 1890, ch. 841, § 2, 26 Stat. 418; 1939 Reorg. Plan No. I, §§ 201, 204, eff. July 1, 1939, 4 F.R. 2728, 53 Stat. 1424; 1953 Reorg. Plan No. 1, §§ 5, 8, eff. Apr. 11, 1953, 18 F.R. 2053, 67 Stat. 631; Apr. 21, 1976, Pub. L. 94-273, § 9(1), 90 Stat. 378.)

AMENDMENTS

1976—Pub. L. 94-273 substituted "October" for "July" and "December" for "September".

TRANSFER OF FUNCTIONS

Transfer of functions from Secretary of the Interior to Secretary of Health, Education, and Welfare, see transfer of functions note under section 321 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 322 of this title.

§ 325. State to replace funds misapplied, etc.; restrictions on use of funds; reports by colleges

If any portion of the moneys received by the designated officer of the State or Territory for the further and more complete endowment, support, and maintenance of colleges, or of institutions for colored students, as provided in this subchapter, shall, by any action or contingency, be diminished or lost, or be misapplied, it shall be replaced by the State or Territory to which it belongs, and until so replaced no subsequent appropriation shall be apportioned or paid to such State or Territory; and no portion of said moneys shall be applied, directly or indirectly, under any pretense whatever, to the purchase, erection, preservation, or repair of any building or buildings. An annual report by the president of each of said colleges shall be made to the Secretary of Agriculture, as well as to the Secretary of Health, Education, and Welfare, regarding the condition and progress of each college, including statistical information in relation to its receipts and expenditures, its library, the number of its students and professors, and also as to any improvements and experiments made under the direction of any experiment stations attached to said colleges, with their cost and results, and such other industrial and economical statistics as may be regarded as useful, one copy of which shall be transmitted by mail free to all other colleges further endowed under this subchapter.

(Aug. 30, 1890, ch. 841, § 3, 26 Stat. 418; 1939 Reorg. Plan No. I, §§ 201, 204, eff. July 1, 1939, 4 F.R. 2728, 53 Stat. 1424; 1953 Reorg. Plan No. 1, §§ 5, 8, eff. Apr. 11, 1953, 18 F.R. 2053, 67 Stat. 631.)

TRANSFER OF FUNCTIONS

Transfer of functions from Secretary of the Interior to Secretary of Health, Education, and Welfare, see transfer of functions note under section 321 of this title.

CROSS REFERENCES

Misapplication of funds received for support and maintenance of cooperative agricultural extension work, see section 345 of this title.

Penalty mail, authorization to use, see section 3202 of Title 39, Postal Service.

Penalty mail service, reimbursement for, see section 3206 of Title 39, Postal Service.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 39 section 3202.

§ 326. Ascertainment and certification of amounts due States; certificates withheld from States; appeal to Congress

On or before the 1st day of October in each year, the Secretary of Health, Education, and Welfare shall ascertain and certify to the Secretary of the Treasury as to each State and Territory whether it is entitled to receive its share of the annual appropriation for colleges, or of institutions for colored students, under this subchapter, and the amount which thereupon each is entitled, respectively, to receive. If the Secretary of Health, Education, and Welfare shall withhold a certificate from any State or Territory of its appropriation the facts and reasons therefor shall be reported to the President, and the amount involved shall be kept separate in the Treasury until the close of the next Congress, in order that the State or Territory may, if it should so desire, appeal to Congress from the determination of the Secretary of Health, Education, and Welfare. If the next

Congress shall not direct such sum to be paid it shall be covered into the Treasury.

(Aug. 30, 1890, ch. 841, § 4, 26 Stat. 419; 1939 Reorg. Plan No. I, §§ 201, 204, eff. July 1, 1939, 4 F.R. 2728, 53 Stat. 1424; 1953 Reorg. Plan No. 1, §§ 5, 8, eff. Apr. 11, 1953, 18 F.R. 2053, 67 Stat. 631; Apr. 21, 1976, Pub. L. 94-273, § 3(1), 90 Stat. 376.)

CODIFICATION

Section constitutes part of section 4 of act Aug. 30, 1890. Remainder of section 4 is classified to section 321 of this title.

AMENDMENTS

1976—Pub. L. 94-273 substituted "October" for "July".

TRANSFER OF FUNCTIONS

Transfer of functions from Secretary of the Interior to Secretary of Health, Education, and Welfare, see transfer of functions note under section 321 of this title.

§ 326a. Annual appropriation for Virgin Islands and Guam

There is authorized to be appropriated annually for payment to the Virgin Islands and Guam the amount they would receive under this subchapter if they were States. Sums appropriated under this section shall be treated in the same manner and be subject to the same provisions of law, as would be the case if they had been appropriated by section 322 of this title.

(Aug. 30, 1890, ch. 841, § 5, as added June 23, 1972, Pub. L. 92-318, title V, § 506(c), 86 Stat. 350.)

CODIFICATION

"Appropriated by section 322 of this title" was substituted for "appropriated by the first sentence of this Act". The first sentence of Act Aug. 30, 1890, is classified to sections 322 and 323 of this title, but section 322 only contains the appropriation provision.

EFFECTIVE DATE

Section 506(n) of Pub. L. 92-318 provided that: "The amendments made by this section [enacting this section, amending sections 329, 331, 343(b), 349, 361a, 361c(b), and 1626 of this title and sections 582a-3 and 582a-7 of Title 16, and enacting provisions set out as notes under this section and section 301 of this title] shall be effective after June 30, 1970."

STATE CONSENT

Section 506(m) of Pub. L. 92-318 provided that: "With respect to the Virgin Islands and Guam, the enactment of this section [see Effective Date note hereunder] shall be deemed to satisfy any requirement of State consent contained in laws or provisions of law referred to in this section [see Effective Date note hereunder]."

§ 327. Repealed. May 29, 1928, ch. 901, § 1(74), 45 Stat. 991

Section, act Aug. 30, 1890, ch. 841, § 5, 26 Stat. 419, related to reports by Secretary of the Interior of disbursements and certificates withheld.

§ 328. Power to amend, repeal, etc., reserved

Congress may at any time amend, suspend, or repeal any or all of the provisions of this subchapter.

(Aug. 30, 1890, ch. 841, § 6, 26 Stat. 419.)

§ 329. Additional appropriation for agricultural colleges

In order to provide for the more complete endowment and support of the colleges in the several States, Puerto Rico, the Virgin Islands, and Guam entitled to the benefits of this subchapter and subchapter I of this title, there are authorized to be appropriated annually, out of any money in the Treasury not otherwise appropriated, the following amounts:

(a) for the first fiscal year beginning after the date of enactment of this Act, and for each fiscal year thereafter, $8,100,000; and

(b) For the first fiscal year beginning after the date of enactment of this Act, and for each fiscal year thereafter, $4,360,000.

The sums appropriated in pursuance of paragraph (a) of this section shall be paid annually to the several States, Puerto Rico, the Virgin Islands, and Guam in equal shares. The sums appropriated in pursuance of paragraph (b) of this section shall be in addition to sums appropriated in pursuance of paragraph (a) of this section and shall be allotted and paid annually to each of the several States, Puerto Rico, the Virgin Islands, and Guam in the proportion to which the total population of each State and Puerto Rico, bears to the total population of all the States, Puerto Rico, the Virgin Islands, and Guam as determined by the last preceding decennial census. Sums appropriated in pursuance of this section shall be in addition to sums appropriated or authorized under this subchapter and subchapter I of this title, and shall be applied only for the purposes of the colleges defined in such subchapters. The provisions of law applicable to the use and payment of sums under this subchapter shall apply to the use and payment of sums appropriated in pursuance of this section.

(June 29, 1935, ch. 338, § 22, 49 Stat. 439; June 12, 1952, ch. 419, §§ 1-4, 66 Stat. 135; July 14, 1960, Pub. L. 86-658, 74 Stat. 525; Nov. 7, 1966, Pub. L. 89-791, title I, § 108(a), as added June 20, 1968, Pub. L. 90-354, § 1, 82 Stat. 241; June 23, 1972, Pub. L. 92-318, title V, § 506(d), 86 Stat. 350.)

REFERENCES IN TEXT

The words "date of enactment of this Act" appear in par. (a) of section 22 of act June 29, 1935, which was approved on June 29, 1935, and also in pars. (a) and (b) of section 22 of act June 29, 1935, as amended by Pub. L. 86-658, which was approved on July 14, 1960.

CODIFICATION

Section was not enacted as part of the Act of Aug. 30, 1890, which comprises this subchapter.

Section was formerly classified to section 343d of this title.

AMENDMENTS

1972—Pub. L. 92-318 inserted references to Virgin Islands and Guam, and substituted "$8,100,000" and "$4,360,000" for "$7,800,000" and "$4,320,000", respectively.

1968—Pub. L. 89-791, as added by Pub. L. 90-354, increased the authorization for annual appropriations for Federal grants to the States for the support of resident teaching in land-grant colleges and universities from an authorization of $7,650,000 to $7,800,000, allocated equally among the States, and from an au-

thorization of $4,300,000, allotted on the basis of relative State population, to $4,320,000.

1960—Pub. L. 86-658 increased the authorization for annual appropriations for Federal grants to the States for the support of resident teaching in land-grant colleges and universities from an authorization of $1,000,000, allocated equally among the States, to $7,650,000, and from an authorization of $1,501,500, allotted on the basis of relative State population, to $4,300,000, deleted references to the Territories of Alaska and Hawaii as now included in the term "States" and included Puerto Rico in the provisions of the section.

1952—Opening par. Act June 12, 1952, § 1, made section applicable to Alaska.

Par. (a). Act June 12, 1952, § 2, increased the allotment from $980,000 to $1,000,000.

Par. (b). Act June 12, 1952, §§ 3, 4, increased the additional allotment of $1,500,000 to $1,501,500, and made said par. applicable to Alaska.

EFFECTIVE DATE OF 1972 AMENDMENT

Amendment by Pub. L. 92-318 effective after June 30, 1970, see section 506(n) of Pub. L. 92-318, set out as a note under section 326a of this title.

EFFECTIVE DATE OF 1952 AMENDMENT

Section 5 of act June 12, 1952, provided that the amendments by act June 12, 1952, shall take effect on the first day of the first fiscal year beginning on or after June 12, 1952.

SUBCHAPTER III—RETIREMENT OF EMPLOYEES

§ 331. Retirement of land-grant college employees

Pursuant to the recognized obligations of governments to guarantee the social security of their employees and in order to provide for the retirement on an annuity, or otherwise, of all persons being paid salaries in whole or in part from grants of Federal funds to the several States, Puerto Rico, the Virgin Islands, and Guam pursuant to the terms of the Act approved July 2, 1862, for the endowment and support of colleges of agriculture and mechanic arts [7 U.S.C. 301 et seq.], and Acts supplementary thereto providing for instruction in agriculture and mechanic arts, for the establishment of agricultural experiment stations, and for cooperative extension work in agriculture and home economics, all States, Puerto Rico, the Virgin Islands, and Guam are hereafter authorized, notwithstanding any contrary provisions in said Acts, to withhold from expenditure, from Federal funds advanced under the terms of said Acts, amounts designated as employer contributions to be made by the States, Puerto Rico, the Virgin Islands or Guam to retirement systems established in accordance with the laws of such States, Puerto Rico, the Virgin Islands, or Guam, or established by the governing boards of colleges of agriculture and mechanic arts in accordance with the authority vested in them, and to deposit such amounts to the credit of such retirement systems for subsequent disbursement in accordance with the terms of the retirement systems in effect in the respective States, Puerto Rico, the Virgin Islands, and Guam: *Provided,* That there shall not be deducted from Federal funds and deposited to the credit of retirement accounts as employer contributions, amounts in excess of 5 per centum of that portion of the salaries of employees paid from such Federal funds: *Provided further,* That, for the purpose of making deposits and contributions in retirement systems in favor of any employee, in no event shall the deductions from any Federal fund advanced pursuant to the foregoing Acts be in greater proportion to the total deductions for such employee than the salary received under such Federal funds bears to the total salary from Federal sources: *Provided further,* That the deposits and contributions from funds of Federal origin to any retirement system established by a State, Puerto Rico, the Virgin Islands, or Guam or a land-grant college must be at least equaled by the total contributions thereto on the part of the individuals concerned, the State, and the counties: *And provided further,* That no deductions for the foregoing purposes shall be made from Federal funds in support of employees appointed pursuant to the terms of the foregoing Acts, whose salaries are paid wholly by the States, Puerto Rico, the Virgin Islands, or Guam: *Provided further,* That the provisions of this section shall not apply to any employee paid in whole or in part from Federal funds who may be subject to subchapter III of chapter 83 of title 5.

(Mar. 4, 1940, ch. 38, 54 Stat. 39; June 23, 1972, Pub. L. 92-318, title V, § 506(e), 86 Stat. 351.)

REFERENCES IN TEXT

The Act approved July 2, 1862, referred to in text, is classified to subchapter I (§ 301 et seq.) of this chapter; and "Acts supplementary thereto" include Act Aug. 30, 1890, which is classified to subchapter II (§ 321 et seq.) of this chapter.

CODIFICATION

"Subchapter III of chapter 83 of Title 5" was substituted for "United States Civil Service Retirement Act, as amended" on authority of sections 7 and 8 of Pub. L. 89-544, Sept. 6, 1966, 80 Stat. 631, 632, section 1 of which enacted Title 5, Government Organization and Employees.

AMENDMENTS

1972—Pub. L. 92-318 substituted ", Puerto Rico, the Virgin Islands, and Guam" and ", Puerto Rico, the Virgin Islands, or Guam" for "and Territories" and "or Territories" wherever appearing and inserted in third proviso reference to Puerto Rico, Virgin Islands, and Guam.

EFFECTIVE DATE OF 1972 AMENDMENT

Amendment by Pub. L. 92-318 effective after June 30, 1970, see section 506(n) of Pub. L. 92-318, set out as a note under section 326a of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 361d of this title.

SECTION REFERRED TO IN D.C. CODE

This section is referred to in sections 31-1607, 31-1719 of the District of Columbia Code.

SUBCHAPTER IV—AGRICULTURAL EXTENSION WORK APPROPRIATION

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 418, 2664 of this title; title 20 section 1010; title 39 section 3202.

SUBCHAPTER REFERRED TO IN D.C. CODE

This subchapter is referred to in sections 31-1609, 31-1719 of the District of Columbia Code.

§ 341. Cooperative extension work by colleges

In order to aid in diffusing among the people of the United States useful and practical information on subjects relating to agriculture and home economics, and to encourage the application of the same, there may be continued or inaugurated in connection with the college or colleges in each State, Territory, or possession, now receiving, or which may hereafter receive, the benefits of subchapters I and II of this chapter, agricultural extension work which shall be carried on in cooperation with the United States Department of Agriculture: *Provided*, That in any State, Territory, or possession in which two or more such colleges have been or hereafter may be established, the appropriations hereinafter made to such State, Territory, or possession shall be administered by such college or colleges as the legislature of such State, Territory, or possession may direct.

(May 8, 1914, ch. 79, § 1, 38 Stat. 372; June 26, 1953, ch. 157, § 1, 67 Stat. 83.)

AMENDMENTS

1953—Act June 26, 1953, inserted "continued or" preceding "inaugurated" near beginning of section, inserted references to "territory, or possession" following "State," wherever the latter term appeared, and struck out a second proviso which continued farm management work and farmers' cooperative demonstration work as conducted May 8, 1914, pending inauguration and development of cooperative extension work under sections 341–343 and 344–348 of this title.

TRANSFER OF FUNCTIONS

All functions of all officers, agencies and employees of the Department of Agriculture were transferred, with certain exceptions, to the Secretary of Agriculture by 1953 Reorg. Plan No. 2, § 1, eff. June 4, 1953, 18 F.R. 3219, 67 Stat. 633, set out as a note under section 2201 of this title.

SHORT TITLE

The Act of May 8, 1914, ch. 79, as amended, which is classified to this subchapter, is popularly known as the "Smith-Lever Act".

DONATION OF SURPLUS PROPERTY TO STATE AGRICULTURAL EXTENSION AGENCIES

Transfer of office equipment, materials, books and other supplies to State or county agencies engaged in cooperative agricultural extension work, see note set out under section 484 of Title 40, Public Buildings, Property, and Works.

CROSS REFERENCES

Agricultural experiment stations, see section 361a et seq. of this title.

Penalty mail, authorization to use, see section 3202 of Title 39, Postal Service.

§ 342. Cooperative agricultural extension work; cooperation with Secretary of Agriculture

Cooperative agricultural extension work shall consist of the giving of instruction and practical demonstrations in agriculture and home economics and subjects relating thereto to persons not attending or resident in said colleges in the several communities, and imparting information on said subjects through demonstrations, publications, and otherwise and for the necessary printing and distribution of information in connection with the foregoing; and this work shall be carried on in such manner as may be mutually agreed upon by the Secretary of Agriculture and the State agricultural college or colleges or Territory or possession receiving the benefits of this subchapter.

(May 8, 1914, ch. 79, § 2, 38 Stat. 373; June 26, 1953, ch. 157, § 1, 67 Stat. 84; Oct. 5, 1962, Pub. L. 87-749, § 1(a), 76 Stat. 745.)

AMENDMENTS

1962—Pub. L. 87-749 inserted "or Territory or possession" following "college or colleges."

1953—Act June 26, 1953 inserted "and subjects relating thereto" after "agriculture and home economics" near beginning of section, and inserted the reference to necessary printing and distribution of information.

CROSS REFERENCES

Penalty mail, authorization to use, see section 3202 of Title 39, Postal Service.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 374a of this title.

§ 343. Appropriations; distribution; allotment and apportionment; Federal Extension Service

(a) There are authorized to be appropriated for the purposes of this subchapter such sums as Congress may from time to time determine to be necessary.

(b)(1) Out of such sums, each State and the Federal Extension Service shall be entitled to receive annually a sum of money equal to the sums available from Federal cooperative extension funds for the fiscal year 1962, and subject to the same requirements as to furnishing of equivalent sums by the State, except that amounts heretofore made available to the Secretary for allotment on the basis of special needs shall continue available for use on the same basis.

(2) There is authorized to be appropriated for the fiscal year ending June 30, 1971, and for each fiscal year thereafter, for payment to the Virgin Islands and Guam, $100,000 each, which sums shall be in addition to the sums appropriated for the several States of the United States and Puerto Rico under the provisions of this section. The amount paid by the Federal Government to the Virgin Islands and Guam pursuant to this paragraph shall not exceed during any fiscal year, except the fiscal years ending June 30, 1971, and June 30, 1972, when such amount may be used to pay the total cost of providing services pursuant to this subchapter, the amount available and budgeted for expenditure by the Virgin Islands and Guam for the purposes of this subchapter.

(c) Any sums made available by the Congress for further development of cooperative extension work in addition to those referred to in subsection (b) of this section shall be distributed as follows:

1. Four per centum of the sum so appropriated for each fiscal year shall be allotted to the Federal Extension Service for administrative, technical, and other services, and for coordinating the extension work of the Department and the several States, Territories, and possessions.

2. Of the remainder so appropriated for each fiscal year 20 per centum shall be paid to the several States in equal proportions, 40

per centum shall be paid to the several States in the proportion that the rural population of each bears to the total rural population of the several States as determined by the census, and the balance shall be paid to the several States in the proportion that the farm population of each bears to the total farm population of the several States as determined by the census: *Provided,* That payments out of the additional appropriations for further development of extension work authorized herein may be made subject to the making available of such sums of public funds by the States from non-Federal funds for the maintenance of cooperative agricultural extension work provided for in this subchapter, as may be provided by the Congress at the time such additional appropriations are made: *Provided further,* That any appropriation made hereunder shall be allotted in the first and succeeding years on the basis of the decennial census current at the time such appropriation is first made, and as to any increase, on the basis of decennial census current at the time such increase is first appropriated.

(d) The Federal Extension Service shall receive such additional amounts as Congress shall determine for administration, technical, and other services and for coordinating the extension work of the Department and the several States, Territories, and possessions.

(May 8, 1914, ch. 79, § 3, 38 Stat. 373; June 26, 1953, ch. 157, § 1, 67 Stat. 84; Oct. 5, 1962, Pub. L. 87-749, § 1(b)-(e), 76 Stat. 745; June 23, 1972, Pub. L. 92-318, title V, § 506(g), 86 Stat. 351.)

CODIFICATION

Section 3 of act May 8, 1914 contained additional provisions relating to appropriations which were omitted as executed legislation.

AMENDMENTS

1972—Subsec. (b). Pub. L. 92-318 designated existing provisions as par. (1) and added par. (2).

1962—Subsec. (b). Pub. L. 87-749, § 1(b), substituted "sums available" for "sums received", and "1962" for "1953", and deleted ", Alaska, Hawaii, Puerto Rico," preceding "and the Federal Extension Service", "such sums shall be" preceding "subject to the same requirement", ", Alaska, Hawaii, and Puerto Rico as existed immediately prior to June 26, 1953" preceding "except that amounts heretofore", and the proviso which authorized Puerto Rico to receive the total initial amount set by Act Oct. 26, 1949, which amount was to be increased yearly until the total sum equalled the maximum amount set by such Act, and to receive such amount annually thereafter.

Subsec. (c)1. Pub. L. 87-749, § 1(c), provided that the allotment shall be to the Federal Extension Service for various services and for coordinating the extension work of the Department, States, Territories and Possessions, and eliminated provisions which required the Secretary to allot the funds among the States, Alaska, Hawaii, and Puerto Rico according to special needs.

Subsec. (c)2. Pub. L. 87-749, § 1(d), substituted provisions authorizing 20 per centum of the remainder of the appropriated funds to be paid to the States in equal proportions, 40 per centum of such funds to be paid to the States in the proportion that the rural population of each bears to the total rural population of the States, and the balance to be paid the States in the proportion that the farm population of each bears to the total farm population of the States, for provisions paying 50 per centum of the remaining sum to the States, Alaska, Hawaii and Puerto Rico in the proportion that the rural population of each had to the total rural population of all, and the balance in the proportion that the farm population of each had to the farm population of all, and eliminated ", Alaska, Hawaii, and Puerto Rico" from the first proviso.

Subsec. (d). Pub. L. 87-749, § 1(e), inserted "additional" following "receive such".

1953—Act June 26, 1953, amended section generally, and, among other changes: (1) divided section into subsections; (2) substituted the general authorization for appropriations for former authorization for specific annual appropriations; (3) inserted references to Alaska, Hawaii, and Puerto Rico; and (4) substituted the provisions relating to allotment and apportionment of appropriations for former provisions for such apportionment on the basis of rural population, and farm population, as determined by the latest census.

EFFECTIVE DATE OF 1972 AMENDMENT

Amendment by Pub. L. 92-318 effective after June 30, 1970, see section 506(n) of Pub. L. 92-318, set out as a note under section 326a of this title.

FISCAL YEAR TRANSITION PERIOD OF JULY 1, 1976, THROUGH SEPTEMBER 30, 1976, DEEMED FISCAL YEAR

Pub. L. 94-274, title II, § 201, Apr. 21, 1976, 90 Stat. 390, provided that:

"The period of July 1, 1976, through September 30, 1976, shall be treated as a fiscal year for the purpose of the following provisions of law:

"(1) section 3(b)(2) of the Act of March 2, 1887, as amended (7 U.S.C. 361c(b)(2));

"(2) section 204(b) of the Agricultural Marketing Act of 1946 (7 U.S.C. 1623(b));

"(3) section 16(b) of the Food Stamp Act of 1964 (7 U.S.C. 2025(b));

"(4) the Act of June 30, 1932 (16 U.S.C. 577a);

"(5) section 1 of the Act of June 29, 1966 (Public Law 89-473; 31 U.S.C. 628a);

"(6) section 2 of the Act of December 23, 1944 (chapter 716, as amended, 31 U.S.C. 492b);

"(7) section 3(a) of the Act of July 15, 1957 (chapter 509, 31 U.S.C. 581d);

"(8) section 10(c) of the Act of June 29, 1935, as added by the Act of August 14, 1946, as amended (7 U.S.C. 427i(c));

"(9) section 208(d) of the District of Columbia Public Post Secondary Education Reorganization Act (Public Law 93-471);

"(10) sections 2209, 2210, 3201, 3202, 5401, 5402, 7581, 8201, and 8202 of title 10, United States Code;

"(11) section 305(b) of the Social Security Amendments of 1972 (Public Law 92-603, 42 U.S.C. 401 note);

"(12) sections 201(a), (b), and (g)(1), 302(a), 403(g), 424, 431, 502, 901(b), (c), and (f), 903(a)(1) and (b)(1), 1203, 1817(a), and 1841(h) and (i) of the Social Security Act (42 U.S.C. 401(a), (b), and (g)(1), 502(a), 603(g), 624, 631, 702, 1101(b), (c), and (f), 1103(a)(1) and (b)(1), 1323, 1395i(a), and 1395t(h) and (i));

"(13) part C of title IV of the Higher Education Act of 1965 (42 U.S.C. 2751-56a);

"(14) section 7652(b) of the Internal Revenue Code of 1954 (26 U.S.C. 7652);

"(15) the second sentence of section 3(b)(2) of the Act of May 8, 1914, as added by the Act of June 23, 1972 (7 U.S.C. 343(b)(2));

"(16) section 15(b) of the Peace Corps Act (22 U.S.C. 2514 (b));

"(17) sections 206(d), 209(c), 311(c), 313(b), 314(d)(4) and (5), 317(b), (d)(4), and (f), 318(f) and (g), 324(b), 328(b), 331, 820(d), 838(a), 838(b)(2), 841, 846, 1206(e), 1516(a), 1610(a), 1611(c), and 1640(a) of the Public Health Service Act (42 U.S.C. 207(d), 210b(c), 243(c), 245a(b), 246(d)(4) and (5), 247b(b), (d)(4), and (f), 247c(f) and (g), 251(b), 254a(b), 255, 296k(d), 297d(a) and (b)(2), 297h, and 297k, 300d-5(e), 3001-5(a), 300p(a), 300p-1(c), and 300t(a));

"(18) sections 303(c) and (e), 306(c), 307(a), 501(b), 703, 705(a)(2)(B), and 706 of the Older Americans

Act of 1965 (42 U.S.C. 3023(c) and (e), 3026(c), 3027(a), 3041(b), 3045b, 3045d(a)(2)(B), and 3045e);

"(19) for purposes of continuation grants under the Community Mental Health Centers Act [chapter 33 of Title 42], section 264(a) and the first sentence of section 221(c) of that Act as in effect prior to July 29, 1975 (42 U.S.C. 2688a(c) and 2688r(a)) [former sections 2688r(a) Title 2688a(c) of Title 42];

"(20) section 513(a) of the Headstart-Follow Through Act (42 U.S.C. 2928b(a)) except the material following the semicolon in the third sentence of that section shall not apply to funds appropriated for the period of July 1, 1976, through September 30, 1976;

"(21) section 4(b) of the Act of July 22, 1963 (7 U.S.C. 390c (b));

"(22) section 3(c) of the Act of May 8, 1914, as amended (7 U.S.C. 343(c));

"(23) the last sentence of section 520(a) of the Omnibus Crime Control and Safe Streets Act of 1968, as amended (42 U.S.C. 3768(a));

"(24) section 401 of the Act of June 15, 1935 (49 Stat. 383), as amended (16 U.S.C. 715s);

"(25) section 203(d) of the Act of June 26, 1934, as amended (12 U.S.C. 1783(d));

"(26) section 4 of the Act of July 18, 1958, as amended (15 U.S.C. 633);

"(27) section 316 of the Act of August 10, 1965 (15 U.S.C. 694);

"(28) section 2(e) of the Act of August 4, 1950 (31 U.S.C. 181a(e));

"(29) section 7 of the Act of February 22, 1921 (31 U.S.C. 491);

"(30) section 4 of the Act of June 26, 1934 (31 U.S.C. 725c);

"(31) sections 102 and 103 of the Act of December 6, 1946 (31 U.S.C. 847 and 848);

"(32) section 257 of the Revised Statutes (31 U.S.C. 1027);

"(33) section 15 of the Act of July 31, 1894 (31 U.S.C. 1029);

"(34) section 1 of the Act of February 26, 1907 (31 U.S.C. 1030);

"(35) section 401 of the Act of December 31, 1970 (31 U.S.C. 1033);

"(36) sections 103(e) and 111(d) of the Social Security Amendments of 1965 (42 U.S.C. 426a(c) and 1395i-1); and

"(37) section 102(a)(11) of the Housing and Community Development Act of 1974 (42 U.S.C. 5302(a)(11))."

CROSS REFERENCES

Penalty mail, authorization to use, see section 3202 of Title 39, Postal Service.

§§ 343a to 343c-1. Repealed. June 26, 1953, ch. 157, § 2, 67 Stat. 85, 86

Section 343a, acts May 22, 1928, ch. 687, § 1, 45 Stat. 711; Mar. 10, 1930, ch. 73, 46 Stat. 83, authorized additional annual appropriations of $980,000, and $500,000, further to develop cooperative agricultural extension work under sections 341 to 343, 344 to 346, and 347a to 349 of this title, provided for the disposition of such sums, and extended the system to Hawaii.

Section 343b, act May 22, 1928, ch. 687, § 2, 45 Stat. 712, provided that the sums appropriated under said section 343a should be in addition to sums appropriated under section 343 of this title, or sums otherwise annually appropriated for cooperative agricultural extension work.

Section 343c, acts June 29, 1935, ch. 338, § 21, 49 Stat. 438; June 6, 1945, ch. 175, § 2, 59 Stat. 233, authorized further additional appropriations on an ascending scale until they amounted to $12,000,000 annually, further to develop the cooperative agricultural system inaugurated under sections 341 to 343, 344 to 346, 347a to 349 of this title, and provided for their disposition.

Section 343c-1, acts Apr. 24, 1939, ch. 85, 53 Stat. 589; Sept. 21, 1944, ch. 412, title VII, § 707, 58 Stat. 742, authorized additional appropriations of $555,000 annually, for the purpose of paying the expenses of cooperative extension work in agriculture and home economics, and provided for their disposition.

The provisions that were contained in all of the above repealed sections are now covered generally by sections 341 to 343, 344 to 346, and 347a to 349 of this title.

§ 343d. Transferred

CODIFICATION

Section has been transferred to section 329 of this title.

§§ 343d-1 to 343d-5. Repealed. June 26, 1953, ch. 157, § 2, 67 Stat. 86

Section 343d-1, act June 29, 1935, ch. 338, § 23, as added June 6, 1945, ch. 175, § 1, 59 Stat. 231, authorized further additional appropriations, commencing with the fiscal year ended June 30, 1946 and continuing on an ascending scale until they amounted to $12,500,000 for the fiscal year ended June 30, 1948 and each subsequent fiscal year, further to develop the cooperative agricultural extension system inaugurated under sections 341 to 343, 344 to 346, and 347a to 349 of this title, and provided for their disposition.

Sections 343d-2 and 343d-3, act Oct. 26, 1949, ch. 753, §§ 1, 2, 63 Stat. 926, extended the provisions of former section 343d-1 of this title to Puerto Rico and for such purposes, authorized additional appropriations on an ascending scale until they should amount to $401,090 annually.

Sections 343d-4 and 343d-5, act Oct. 27, 1949, ch. 768, §§ 1, 2, 63 Stat. 939, extended the provisions of former sections 343a, 343b, 343c and 343d-1 of this title to Alaska, and, for such purpose, authorized annual appropriations in amounts to be computed on the same basis as computations of appropriations to States, subject to annual estimates as to funds and amounts by the Secretary of Agriculture.

The provisions that were contained in all of the above repealed sections are now covered generally by sections 341 to 343, 344 to 346, and 347a to 349 of this title.

§ 343e. Repealed. Oct. 27, 1949, ch. 768, § 3, 63 Stat. 940

Section, act June 20, 1936, ch. 631, §§ 1, 3, 49 Stat. 1553, 1554, related to the extension of benefits of former sections 343a and 343b of this title to Alaska. See notes thereunder.

§§ 343f, 343g. Repealed. June 26, 1953, ch. 157, § 2, 67 Stat. 86

Sections, act Aug. 28, 1937, ch. 878, §§ 1, 2, 50 Stat. 881, extended the benefits of former section 343c of this title to Puerto Rico, and for such purpose, authorized appropriations, commencing with initial authorization of $88,000 for the fiscal year beginning after August 28, 1937, and on an ascending scale thereafter, until they amounted to $408,000 annually. These provisions are now covered by sections 341 to 343, 344 to 346, and 347a to 349 of this title.

§ 344. Ascertainment of entitlement; time and manner of payment; reports of receipts and disbursements

On or about the first day of October in each year after June 26, 1953, the Secretary of Agriculture shall ascertain as to each State whether it is entitled to receive its share of the annual appropriation for cooperative agricultural extension work under this subchapter and the amount which it is entitled to receive. Before the funds herein provided shall become available to any college for any fiscal year, plans for

the work to be carried on under this subchapter shall be submitted by the proper officials of each college and approved by the Secretary of Agriculture. Such sums shall be paid in equal quarterly payments in or about July, October, January, and April of each year to the treasurer or other officer of the State duly authorized by the laws of the State to receive the same, and such officer shall be required to report to the Secretary of Agriculture on or about the first day of April of each year, a detailed statement of the amount so received during the previous fiscal year and its disbursement, on forms prescribed by the Secretary of Agriculture.

(May 8, 1914, ch. 79, § 4, 38 Stat. 374; June 26, 1953, ch. 157, § 1, 67 Stat. 85; Oct. 5, 1962, Pub. L. 87-749, § 1(f), 76 Stat. 745; Apr. 21, 1976, Pub. L. 94-273, § 15, 90 Stat. 379.)

AMENDMENTS

1976—Pub. L. 94-273 substituted "of October" for "of July" and "of April" for "of January".

1962—Pub. L. 87-749 substituted "quarterly payments in or about July, October, January, and April" for "semiannual payments on the first day of January and July", and eliminated ", Territory or possession" wherever appearing.

1953—Act June 26, 1953, among other changes, inserted first two sentences, inserted references to "Territory, or possession" after references to "State," in sentence commencing "Such sums", and in such sentence, struck out reference to payment by the Secretary of the Treasury upon warrant of the Secretary of Agriculture, and substituted "January" for "September" with respect to submission of annual detailed statements.

CROSS REFERENCES

Penalty mail, authorization to use, see section 3202 of Title 39, Postal Service.

§ 345. Replacement of diminished, lost or misapplied funds; restrictions on use; reports of colleges

If any portion of the moneys received by the designated officer of any State for the support and maintenance of cooperative agricultural extension work, as provided in this subchapter, shall by any action or contingency be diminished or lost or be misapplied, it shall be replaced by said State and until so replaced no subsequent appropriation shall be apportioned or paid to said State. No portion of said moneys shall be applied, directly or indirectly, to the purchase, erection, preservation, or repair of any building or buildings, or the purchase or rental of land, or in college-course teaching, lectures in college, or any other purpose not specified in this subchapter. It shall be the duty of said colleges, annually, on or about the first day of January, to make to the Governor of the State in which it is located a full and detailed report of its operations in extension work as defined in this subchapter, including a detailed statement of receipts and expenditures from all sources for this purpose, a copy of which report shall be sent to the Secretary of Agriculture.

(May 8, 1914, ch. 79, § 5, 38 Stat. 374; June 26, 1953, ch. 157, § 1, 67 Stat. 85; Oct. 5, 1962, Pub. L. 87-749, § 1(g), 76 Stat. 745.)

AMENDMENTS

1962—Pub. L. 87-749 eliminated references to territories and possessions wherever appearing.

1953—Act June 26, 1953, among other changes, inserted "Territory, or possession" after "State," wherever the latter term appeared, struck out the provision that not more than five per centum of each annual appropriation should be applied to the printing and distribution of publications, and struck out the provision that copies of the required reports should be sent to the Secretary of the Treasury.

CROSS REFERENCES

Misapplication of funds received for endowment of institutions for colored students, see section 325 of this title.

Penalty mail, authorization to use, see section 3202 of Title 39, Postal Service.

§ 346. Report of nonentitlement to President; retention in Treasury; appeal and disposition

If the Secretary of Agriculture finds that a State is not entitled to receive its share of the annual appropriation, the facts and reasons therefor shall be reported to the President, and the amount involved shall be kept separate in the Treasury until the expiration of the Congress next succeeding a session of the legislature of the State from which funds have been withheld in order that the State may, if it should so desire, appeal to Congress from the determination of the Secretary of Agriculture. If the next Congress shall not direct such sum to be paid, it shall be covered into the Treasury.

(May 8, 1914, ch. 79, § 6, 38 Stat. 374; June 26, 1953, ch. 157, § 1, 67 Stat. 85; Oct. 5, 1962, Pub. L. 87-749, § 1(g), 76 Stat. 745.)

AMENDMENTS

1962—Pub. L. 87-749 eliminated references to territories and possessions wherever appearing.

1953—Act June 26, 1953, among other changes, struck out former first sentence relating to ascertainment of entitlement to funds (which provision is now covered in section 344 of this title); substituted "finds that a State, Territory, or possession is not entitled to receive its share of the annual appropriation" for "shall withhold a certificate from any State of its appropriation"; and inserted references to "Territory, or possession" after "State," wherever the latter term appeared.

CROSS REFERENCES

Ascertainment of amount due States, or Territories, and report of appropriation withheld in the case of annual appropriations for institutions for colored students, see section 326 of this title.

Penalty mail, authorization to use, see section 3202 of Title 39, Postal Service.

§ 347. Repealed. Pub. L. 86-533, § 1(21), June 29, 1960, 74 Stat. 249

Section, acts May 8, 1914, ch. 79, § 7, 38 Stat. 374; June 26, 1953, ch. 157, § 1, 67 Stat. 85, required the Secretary of Agriculture to report to the Congress the receipts, expenditures, and results of the cooperative agriculture extension work in all of the States, Territories, or possessions receiving the benefits of sections 341 to 343, 344 to 346, and 347a to 349 of this title.

§ 347a. Disadvantaged agricultural areas

(a) Congressional findings

The Congress finds that there exists special circumstances in certain agricultural areas which cause such areas to be at a disadvantage insofar as agricultural development is concerned, which circumstances include the following: (1) There is concentration of farm families

on farms either too small or too unproductive or both; (2) such farm operators because of limited productivity are unable to make adjustments and investments required to establish profitable operations; (3) the productive capacity of the existing farm unit does not permit profitable employment of available labor; (4) because of limited resources, many of these farm families are not able to make full use of current extension programs designed for families operating economic units nor are extension facilities adequate to provide the assistance needed to produce desirable results.

(b) Appropriation

In order to further the purposes of section 342 of this title in such areas and to encourage complementary development essential to the welfare of such areas, there are authorized to be appropriated such sums as the Congress from time to time shall determine to be necessary for payments to the States on the basis of special needs in such areas as determined by the Secretary of Agriculture.

(c) Assistance

In determining that the area has such special need, the Secretary shall find that it has a substantial number of disadvantaged farms or farm families for one or more of the reasons heretofore enumerated. The Secretary shall make provisions for the assistance to be extended to include one or more of the following: (1) Intensive on-the-farm educational assistance to the farm family in appraising and resolving its problems; (2) assistance and counseling to local groups in appraising resources for capability of improvement in agriculture or introduction of industry designed to supplement farm income; (3) cooperation with other agencies and groups in furnishing all possible information as to existing employment opportunities, particularly to farm families having under-employed workers; and (4) in cases where the farm family, after analysis of its opportunities and existing resources, finds it advisable to seek a new farming venture, the providing of information, advice, and counsel in connection with making such change.

(d) Allocation of funds

No more than 10 per centum of the sums available under this section shall be allotted to any one State. The Secretary shall use project proposals and plans of work submitted by the State Extension directors as a basis for determining the allocation of funds appropriated pursuant to this section.

(e) Appropriation as additional; limitation on amount

Sums appropriated pursuant to this section shall be in addition to, and not in substitution for, appropriations otherwise available under this subchapter. The amounts authorized to be appropriated pursuant to this section shall not exceed a sum in any year equal to 10 per centum of sums otherwise appropriated pursuant to this subchapter.

(May 8, 1914, ch. 79, § 8, as added Aug. 11, 1955, ch. 798, § 1(a), 69 Stat. 683, and amended Oct. 5, 1962, Pub. L. 87-749, § 1(h), 76 Stat. 745.)

AMENDMENTS

1962—Subsec. (b). Pub. L. 87-749 eliminated ", Alaska, Hawaii, and Puerto Rico" preceding "on the basis of".

CROSS REFERENCES

Penalty mail, authorization to use, see section 3202 of Title 39, Postal Service.

§ 348. Rules and regulations

The Secretary of Agriculture is authorized to make such rules and regulations as may be necessary for carrying out the provisions of this subchapter.

(May 8, 1914, ch. 79, § 9, formerly 8, 38 Stat. 374, amended June 26, 1953, ch. 157, § 1, 67 Stat. 85, renumbered Aug. 11, 1955, ch. 798, § 1(b), 69 Stat. 684.)

AMENDMENTS

1953—Act June 26, 1953, substituted the provisions for rules and regulations for provisions empowering Congress to alter, amend, or repeal sections 341 to 343 and 344 to 348 of this title at any time.

CROSS REFERENCES

Penalty mail, authorization to use, see section 3202 of Title 39, Postal Service.

§ 349. "State" defined

The term "State" means the States of the Union, Puerto Rico, the Virgin Islands, and Guam.

(May 8, 1914, ch. 79, § 10, as added Oct. 5, 1962, Pub. L. 87-749, § 1(i), 76 Stat. 745, and amended June 23, 1972, Pub. L. 92-318, title V, § 506(h), 86 Stat. 351.)

AMENDMENTS

1972—Pub. L. 92-318 inserted reference to Virgin Islands and Guam.

EFFECTIVE DATE OF 1972 AMENDMENT

Amendment by Pub. L. 92-318 effective after June 30, 1970, see section 506(n) of Pub. L. 92-318, set out as a note under section 326a of this title.

CHAPTER 14—AGRICULTURAL EXPERIMENT STATIONS

SUBCHAPTER I—GENERAL PROVISIONS

Sec.
361. Repealed.
361a. Congressional declaration of purpose; definitions.
361b. Congressional statement of policy; researches, investigations and experiments.
361c. Authorization of appropriations and allotments of grants.
(a) Authorization.
(b) Allotments to States; authorization of appropriations for Virgin Islands and Guam; limitation.
(c) Allotment of additional sums.
(d) Allotment of amounts in excess of $90,000.
(e) Definition of "Administration".
(f) Adjustment of payments.
361d. Use of funds.

Sec.
361e. Payment of allotments to State agricultural experiment stations; directors and treasurers or other officers; accounting; reports to Secretary; replacement by States of diminished, lost or misapplied allotments; subsequent allotments or payments contingent on such replacement.
361f. Publications of experiment stations; free mailing.
361g. Secretary of Agriculture; powers and duties; rules and regulations; determination of amount of entitlement; deduction of unexpended balances.
361h. Relation of college or university to State unaffected; division of appropriations.
361i. Power to amend, repeal, etc., reserved.
362, 363. Transferred.
364. Repealed.
365. Transferred.
366. Repealed.
367. Omitted.
368 to 368b. Transferred.
368c. Omitted.
369 to 376. Repealed.
377 to 379. Transferred.
380. Repealed.
381. Omitted.
382, 383. Repealed.
384. Card index of agricultural literature; copies to be furnished by Secretary.
385. South Carolina Experiment Station; cooperation by Secretary of Agriculture; lump sum appropriation.
385a. Authorization of appropriations.
386 to 386g. Repealed.

SUBCHAPTER II—EXPERIMENT STATIONS FOR PROPAGATION OF TREES, SHRUBS, VINES, AND VEGETABLES

387. Station for semi-arid or dry-land regions; establishment.
387a. Authorization of appropriations.
388. Station for southern Great Plains area; establishment.
388a. Authorization of appropriations.
389. Transfer of certain dry land and irrigation field stations to States.
389a. Conditions of transfer of dry land and irrigation field stations; reservation of mineral rights.

SUBCHAPTER III—RESEARCH FACILITIES

390. Congressional declaration of policy.
390a. Congressional declaration of purpose.
390b. Definitions.
390c. Allocation of funds.
(a) Authorization of appropriations.
(b) Distribution formula.
(c) Administration; rules and regulations.
390d. Eligibility for payments.
390e. Matching funds; availability of unused allotments in succeeding fiscal years.
390f. Multiple-purpose physical facilities; fund support basis.
390g. Amount of allocation; ascertainment and notification.
390h. Fiscal accountability.
(a) Directors and treasurers or other officers of State agricultural experiment stations; accounting; reports to Secretary.
(b) Repayment by States of diminished, lost or misapplied funds; subsequent allotments or payments contingent on such repayment.
390i. Reports to Congress.
390j. State agricultural experiment stations eligible for benefits; division of appropriations.
390k. Authorization of appropriations.

SUBCHAPTER I—GENERAL PROVISIONS

Sections Referred to in Other Sections

Sections 361a to 361i, commonly known as the Hatch Act of 1887, are referred to in sections 384, 418, 2242, 2664 of this title; title 16 section 582a-1.

§ 361. Repealed. Aug. 11, 1955, ch. 790, § 2, 69 Stat. 674

Section, acts Mar. 16, 1906, ch. 951, § 4, 34 Stat. 64; Feb. 24, 1925, ch. 308, § 4, 43 Stat. 971, provided for the administration of the agricultural experiment station program, and is now covered by section 361g of this title.

Existing Rights and Liabilities

Section 2 of act Aug. 11, 1955, which repealed this section and sections 364, 366, 369, 369a, 371 to 376, 380, 382, 383, 386 to 386f, 427a to 427h, and 427j of this title, provided in part that any rights or liabilities existing under such repealed sections or parts of sections should not be affected by their repeal.

§ 361a. Congressional declaration of purpose; definitions

It is the policy of Congress to continue the agricultural research at State agricultural experiment stations which has been encouraged and supported by the Hatch Act of 1887 [7 U.S.C. 361a et seq.], the Adams Act of 1906, the Purnell Act of 1925, the Bankhead-Jones Act of 1935, and title I, section 9, of that Act as added by the Act of August 14, 1946, and Acts amendatory and supplementary thereto, and to promote the efficiency of such research by a codification and simplification of such laws. As used in this Act [7 U.S.C. 361a et seq.], the terms "State" or "States" are defined to include the several States (including the District of Columbia), Alaska, Hawaii, Puerto Rico, Guam and the Virgin Islands. As used in this Act [7 U.S.C. 361a et seq.], the term "State agricultural experiment station" means a department which shall have been established, under direction of the college or university or agricultural departments of the college or university in each State in accordance with an Act approved July 2, 1862, (12 Stat. 503), entitled "An Act donating public lands to the several States and Territories which may provide colleges for the benefit of agriculture and the mechanic arts" [7 U.S.C. 301 et seq.]; or such other substantially equivalent arrangements as any State shall determine.

(Mar. 2, 1887, ch. 314, § 1, 24 Stat. 440; Aug. 11, 1955, ch. 790, § 1, 69 Stat. 671; June 23, 1972, Pub. L. 92-318, title V, § 506(k), 86 Stat. 351; Oct. 26, 1974, Pub. L. 93-471, title II, § 208(e), 88 Stat. 1429.)

Source Credit

Section 208 of act Oct. 26, 1974, Pub. L. 93-471, cited as a credit to this section, was renumbered section "209" by Act Nov. 1, 1975, D.C. Law 1-36, § 4, 22 DCR 2911.

References in Text

The Hatch Act of 1887, referred to in the text, is classified to this subchapter (§ 361a et seq.).

The Adams Act of 1906, referred to in the text, is act Mar. 16, 1906, ch. 951, 34 Stat. 63, which was formerly classified to sections 361, 366, 369, 371, 373 to 376, 380, and 382 of this title.

The Purnell Act of 1925, referred to in the text, is act Feb. 24, 1925, ch. 308, 43 Stat. 970, which was for-

merly classified to sections 361, 366, 370, 371, 373 to 376, 380, and 382 of this title.

The Bankhead-Jones Act of 1935, referred to in the text, is act June 29, 1935, ch. 338, 49 Stat. 436, which was classified to sections 427 to 427j of this title. Sections 427 and 427i of this title are still in effect.

Title I, section 9, of that Act, referred to in the text, was classified to former section 427h of this title.

The Act approved July 2, 1862, referred to in text, is classified to subchapter I (§ 301 et seq.) of chapter 13 of this title.

CODIFICATION

Section was formerly classified to section 362 of this title.

AMENDMENTS

1974—Pub. L. 93-471 defined "State" to include the District of Columbia.

1972—Pub. L. 92-318 defined "State" to include Guam and the Virgin Islands.

1955—Act Aug. 11, 1955, amended section generally to continue agricultural research at the agricultural experiment stations, to restate the declaration of purpose, and to insert definitions of "State" and "State agricultural experiment station." Former provisions which required division of appropriations between colleges of same state are now contained in section 361h of this title.

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93-471 effective July 1, 1975, unless Pub. L. 93-471 repealed by District of Columbia Council after Jan. 2, 1975, and prior to July 1, 1975; or such amendment by Pub. L. 93-471, as amended by the District Council, also effective July 1, 1975, or some other date prescribed by the Council as authorized under provisions of section 407 of Pub. L. 93-471.

EFFECTIVE DATE OF 1972 AMENDMENT

Amendment by Pub. L. 92-318 effective after June 30, 1970, see section 506(n) of Pub. L. 92-318, set out as a note under section 326a of this title.

SHORT TITLE

The Act of Mar. 2, 1887, ch. 314, as amended, which is classified to sections 361a to 361i of this title, is popularly known as the "Hatch Act of 1887".

ARLINGTON ESTATE

Besides the provisions establishing agricultural experiment stations, contained in act Mar. 2, 1887, a portion of the Arlington estate in the State of Virginia was set apart for experimental agricultural purposes by act April 18, 1900, ch. 243, 31 Stat. 135, and provisions for establishing and maintaining a general experimental farm and agricultural station thereon were made by the subsequent agricultural appropriation acts.

ADMISSION OF ALASKA AND HAWAII TO STATEHOOD

Alaska was admitted into the Union on Jan. 3, 1959, upon the issuance of Proc. No. 3269, Jan. 3, 1959, 24 F.R. 81, 73 Stat. c16, and Hawaii was admitted into the Union on Aug. 21, 1959, upon the issuance of Proc. No. 3309, Aug. 21, 1959, 24 F.R. 6868, 73 Stat. c74. For Alaska Statehood Law, see Pub. L. 85-508, July 7, 1958, 72 Stat. 339, set out as a note preceding section 21 of Title 48, Territories and Insular Possessions. For Hawaii Statehood Law, see Pub. L. 86-3, Mar. 18, 1959, 73 Stat. 4, set out as a note preceding section 491 of Title 48.

CROSS REFERENCES

Exemption of experiment stations from penalties under Agricultural Adjustment Act of 1938, see section 1372 of this title.

Increased annual appropriations for the endowment and maintenance of agricultural colleges, see sections 321 to 326 and 328 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 361c, 361d, 361e, 361g, 361h, 361i, 418, 2242, 2664 of this title; title 16 section 582a-1.

§ 361b. Congressional statement of policy; researches, investigations and experiments

It is further the policy of the Congress to promote the efficient production, marketing, distribution, and utilization of products of the farm as essential to the health and welfare of our peoples and to promote a sound and prosperous agriculture and rural life as indispensable to the maintenance of maximum employment and national prosperity and security. It is also the intent of Congress to assure agriculture a position in research equal to that of industry, which will aid in maintaining an equitable balance between agriculture and other segments of our economy. It shall be the object and duty of the State agricultural experiment stations through the expenditure of the appropriations hereinafter authorized to conduct original and other researches, investigations, and experiments bearing directly on and contributing to the establishment and maintenance of a permanent and effective agricultural industry of the United States, including researches basic to the problems of agriculture in its broadest aspects, and such investigations as have for their purpose the development and improvement of the rural home and rural life and the maximum contribution by agriculture to the welfare of the consumer, as may be deemed advisable, having due regard to the varying conditions and needs of the respective States.

(Mar. 2, 1887, ch. 314, § 2, 24 Stat. 440; Aug. 11, 1955, ch. 790, § 1, 69 Stat. 671.)

CODIFICATION

Section was formerly classified to section 363 of this title.

AMENDMENTS

1955—Act Aug. 11, 1955, amended section generally to restate the policy of Congress.

CROSS REFERENCES

Additional appropriations for research work, see section 427i of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 361c, 361d, 361e, 361g, 361h, 361i, 418, 2242, 2664 of this title; title 16 section 582a-1.

§ 361c. Authorization of appropriations and allotments of grants

(a) Authorization

There are authorized to be appropriated for the purposes of sections 361a to 361i of this title such sums as Congress may from time to time determine to be necessary.

(b) Allotments to States; authorization of appropriations for Virgin Islands and Guam; limitation

(1) Out of such sums each State shall be entitled to receive annually a sum of money equal to and subject to the same requirement as to use for marketing research projects as the sums

received from Federal appropriations for State agricultural experiment stations for the fiscal year 1955, except that amounts heretofore made available from the fund known as the "Regional research fund, Office of Experiment Stations" shall continue to be available for the support of cooperative regional projects as defined in subsection (c)(3) of this section, and the said fund shall be designated "Regional research fund, State agricultural experiment stations," and the Secretary of Agriculture shall be entitled to receive annually for the administration of sections 361a to 361i of this title, a sum not less than that available for this purpose for the fiscal year ending June 30, 1955: *Provided*, That if the appropriations hereunder available for distribution in any fiscal year are less than those for the fiscal year 1955 the allotment to each State and the amounts for Federal administration and the regional research fund shall be reduced in proportion to the amount of such reduction.

(2) There is authorized to be appropriated for the fiscal year ending June 30, 1973, and for each fiscal year thereafter, for payment to the Virgin Islands and Guam, $100,000 each, which sums shall be in addition to the sums appropriated for the several States of the United States and Puerto Rico under the provisions of this section. The amount paid by the Federal Government to the Virgin Islands and Guam pursuant to this paragraph shall not exceed during any fiscal year, except the fiscal years ending June 30, 1971, and June 30, 1972, when such amount may be used to pay the total cost of providing services pursuant to sections 361a to 361i of this title, the amount available and budgeted for expenditure by the Virgin Islands and Guam for the purposes of such sections.

(c) Allotment of additional sums

Any sums made available by the Congress in addition to those provided for in subsection (b) of this section for State agricultural experiment station work shall be distributed as follows:

1. Twenty per centum shall be allotted equally to each State;

2. Not less than 52 per centum of such sums shall be allotted to each State, as follows: One-half in an amount which bears the same ratio to the total amount to be allotted as the rural population of the State bears to the total rural population of all the States as determined by the last preceding decennial census current at the time each such additional sum is first appropriated; and one-half in an amount which bears the same ratio to the total amount to be allotted as the farm population of the State bears to the total farm population of all the States as determined by the last preceding decennial census current at the time such additional sum is first appropriated;

3. Not more than 25 per centum shall be allotted to the States for cooperative research in which two or more State agricultural experiment stations are cooperating to solve problems that concern the agriculture of more than one State. The funds available for such purposes, together with funds available pursuant to subsection (b) of this section for like purpose shall be designated as the "Regional research fund, State agricultural experiment stations", and shall be used only for such cooperative regional projects as are recommended by a committee of nine persons elected by and representing the directors of the State agricultural experiment stations, and approved by the Secretary of Agriculture. The necessary travel expenses of the committee of nine persons in performance of their duties may be paid from the fund established by this paragraph;

4. Not less than 20 per centum of any sums appropriated pursuant to this subsection for distribution to States shall be used by State agricultural experiment stations for conducting marketing research projects approved by the Department of Agriculture;

5. Three per centum shall be available to the Secretary of Agriculture for administration of sections 361a to 361i of this title.

(d) Allotment of amounts in excess of $90,000

Of any amount in excess of $90,000 available under sections 361a to 361i of this title for allotment to any State, exclusive of the regional research fund, State agricultural experiment stations, no allotment and no payments thereof shall be made in excess of the amount which the State makes available out of its own funds for research and for the establishment and maintenance of facilities necessary for the prosecution of such research: *And provided further*, That if any State fails to make available for such research purposes for any fiscal year a sum equal to the amount in excess of $90,000 to which it may be entitled for such year, the remainder of such amount shall be withheld by the Secretary of Agriculture.

(e) Definition of "Administration"

"Administration" as used in this section shall include participation in planning and coordinating cooperative regional research as defined in subsection (c)3 of this section.

(f) Adjustment of payments

In making payments to States, the Secretary of Agriculture is authorized to adjust any such payment to the nearest dollar.

(Mar. 2, 1887, ch. 314, § 3, 24 Stat. 441; Aug. 11, 1955, ch. 790, § 1, 69 Stat. 671; June 23, 1972, Pub. L. 92-318, title V, § 506(*l*), 86 Stat. 351.)

CODIFICATION

Section is based on first sentence of section 3 of act Mar. 2, 1887, which was formerly classified to section 368 of this title. The provisions of section 368 are now covered by section 361g of this title. The second sentence of said section 3 was reenacted in act Feb. 24, 1925, ch. 308, § 3, 43 Stat. 971, and was classified to former section 366 of this title which was repealed by act Aug. 11, 1955, ch. 790, § 2, 69 Stat. 674.

AMENDMENTS

1972—Subsec. (b). Pub. L. 92-318 designated existing provisions as par. (1) and added par. (2).

1955—Act Aug. 11, 1955, amended section generally to authorize appropriations and to provide for allotment of grants. Former provisions which related to advice and assistance by the Secretary of Agriculture are now covered by section 361g of this title.

EFFECTIVE DATE OF 1972 AMENDMENT

Amendment by Pub. L. 92-318 effective after June 30, 1970, see section 506(n) of Pub. L. 92-318, set out as a note under section 326a of this title.

CONTINUATION OF FEDERAL ALLOTMENTS DURING FISCAL YEAR TRANSITION PERIOD FROM JULY 1, 1976, THROUGH SEPTEMBER 30, 1976

Pub. L. 94-274, title I, § 113, Apr. 21, 1976, 90 Stat. 388, provided that: "For the purposes of section 3(d) of the Act of March 2, 1887, as amended (7 U.S.C. 361c(d)) the period of July 1, 1976, through September 30, 1976, shall be treated as a fiscal year and the figure $90,000 in section 3(d) shall be construed to be $22,500 for that period."

FISCAL YEAR TRANSITION PERIOD OF JULY 1, 1976, THROUGH SEPTEMBER 30, 1976, DEEMED FISCAL YEAR

Fiscal year transition period of July 1, 1976, through Sept. 30, 1976, deemed fiscal year for purposes of subsec. (b)(2) of this section, see section 201(1) of Pub. L. 94-274, set out as a note under section 343 of this title.

CROSS REFERENCES

Additional appropriations for research work, see section 427i of this title.

Annual appropriations for agricultural colleges, see section 322 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 361d, 361e, 361g, 361h, 361i, 418, 2242, 2664 of this title; title 16 section 582a-1.

§ 361d. Use of funds

Moneys appropriated pursuant to sections 361a to 361i of this title shall also be available, in addition to meeting expenses for research and investigations conducted under authority of section 361b of this title, for printing and disseminating the results of such research, retirement of employees subject to the provisions of section 331 of this title, administrative planning and direction, and for the purchase and rental of land and the construction, acquisition, alteration, or repair of buildings necessary for conducting research. The State agricultural experiment stations are authorized to plan and conduct any research authorized under section 361b of this title in cooperation with each other and such other agencies and individuals as may contribute to the solution of the agricultural problems involved, and moneys appropriated pursuant to sections 361a to 361i of this title shall be available for paying the necessary expenses of planning, coordinating, and conducting such cooperative research.

(Mar. 2, 1887, ch. 314, § 4, 24 Stat. 441; Aug. 11, 1955, ch. 790, § 1, 69 Stat. 672.)

CODIFICATION

Section was formerly classified to section 365 of this title.

AMENDMENTS

1955—Act Aug. 11, 1955, amended section generally to provide for printing and disseminating the results of research, retirement of employees, administrative planning and direction, purchase and rental of land, and the construction, acquisition, alteration, or repair of buildings necessary for conducting research. Former provisions which related to issuance and free mailing of publications are now contained in section 361f of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 361c, 361g, 361h, 361i, 418, 2242, 2664 of this title; title 16 section 582a-1.

§ 361e. Payment of allotments to State agricultural experiment stations; directors and treasurers or other officers; accounting; reports to Secretary; replacement by States of diminished, lost or misapplied allotments; subsequent allotments or payments contingent on such replacement

Sums available for allotment to the States under the terms of sections 361a to 361i of this title, excluding the regional research fund authorized by section 361c(c)(3) of this title, shall be paid to each State agricultural experiment station in equal quarterly payments beginning on the first day of October of each fiscal year upon vouchers approved by the Secretary of Agriculture. Each such station authorized to receive allotted funds shall have a chief administrative officer known as a director, and a treasurer or other officer appointed by the governing board of the station. Such treasurer or other officer shall receive and account for all funds allotted to the State under the provisions of sections 361a to 361i of this title and shall report, with the approval of the director, to the Secretary of Agriculture on or before the first day of December of each year a detailed statement of the amount received under provisions of said sections during the preceding fiscal year, and of its disbursement on schedules prescribed by the Secretary of Agriculture. If any portion of the allotted moneys received by the authorized receiving officer of any State agricultural experiment station shall by any action or contingency be diminished, lost, or misapplied, it shall be replaced by the State concerned and until so replaced no subsequent appropriation shall be allotted or paid to such State.

(Mar. 2, 1887, ch. 314, § 5, 24 Stat. 441; Aug. 11, 1955, ch. 790, § 1, 69 Stat. 673; Apr. 21, 1976, Pub. L. 94-273, § 9(2), 90 Stat. 378.)

CODIFICATION

Section was formerly classified to section 368a of this title. The provisions of section 368a are now covered by sections 361c and 361d of this title.

AMENDMENTS

1976—Pub. L. 94-273 substituted "October" for "July" and "December" for "September".

1955—Act Aug. 11, 1955, amended section generally to provide for quarterly payment of allotments, to require annual report of allotments and disbursements, and to provide for replacement of funds diminished, lost, or misapplied. Former provisions which authorized appropriations for investigations and experiments are now contained in sections 361c and 361d of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 361c, 361d, 361g, 361h, 361i, 418, 2242, 2664 of this title; title 16 section 582a-1.

§ 361f. Publications of experiment stations; free mailing

Bulletins, reports, periodicals, reprints of articles, and other publications necessary for the dissemination of results of the researches and experiments, including lists of publications available for distribution by the experiment stations, shall be transmitted in the mails of the United States under penalty indicia: *Provided, however,* That each publication shall

bear such indicia as are prescribed by the Postmaster General and shall be mailed under such regulations as the Postmaster General may from time to time prescribe. Such publications may be mailed from the principal place of business of the station or from an established subunit of said station.

(Mar. 2, 1887, ch. 314, § 6, 24 Stat. 441; Aug. 11, 1955, ch. 790, § 1, 69 Stat. 673.)

CODIFICATION

Section was formerly classified to section 377 of this title. The provisions of section 377 are now covered by section 361g of this title.

AMENDMENTS

1955—Act Aug. 11, 1955, amended section generally to authorize free mailing of publications by the agricultural experiment stations. Former provisions which related to the unexpended balance of annual appropriation are now contained in section 361g of this title.

CROSS REFERENCES

Penalty mail, authorization to use, see section 3202 of Title 39, Postal Service.

Preparation and printing of annual report of experiment stations, see section 418 of this title.

Sale of card index of literature prepared in connection with the administration of sections 361a to 361i of this title, see section 384 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 361c, 361d, 361e, 361g, 361h, 361i, 418, 2242, 2664 of this title; title 16 section 582a-1; title 39 section 3202.

§ 361g. Secretary of Agriculture; powers and duties; rules and regulations; determination of amount of entitlement; deduction of unexpended balances

The Secretary of Agriculture is charged with the responsibility for the proper administration of sections 361a to 361i of this title, and is authorized and directed to prescribe such rules and regulations as may be necessary to carry out its provisions. It shall be the duty of the Secretary to furnish such advice and assistance as will best promote the purposes of said sections, including participation in coordination of research initiated under said sections by the State agricultural experiment stations, from time to time to indicate such lines of inquiry as to him seem most important, and to encourage and assist in the establishment and maintenance of cooperation by and between the several State agricultural experiment stations, and between the stations and the United States Department of Agriculture.

On or before the first day of October in each year after the passage of sections 361a to 361i of this title, the Secretary of Agriculture shall ascertain as to each State whether it is entitled to receive its share of the annual appropriations for agricultural experiment stations under said sections and the amount which thereupon each is entitled, respectively, to receive.

Whenever it shall appear to the Secretary of Agriculture from the annual statement of receipts and expenditures of funds by any State agricultural experiment station that any portion of the preceding annual appropriation allotted to that station under sections 361a to 361i of this title remains unexpended, such amount shall be deducted from the next succeeding annual allotment to the State concerned.

If the Secretary of Agriculture shall withhold from any State any portion of the appropriations available for allotment, the facts and reasons therefor shall be reported to the President and the amount involved shall be kept separate in the Treasury until the close of the next Congress. If the next Congress shall not direct such sum to be paid, it shall be carried to surplus.

(Mar. 2, 1887, ch. 314, § 7, 24 Stat. 441; Aug. 11, 1955, ch. 790, § 1, 69 Stat. 673; June 29, 1960, Pub. L. 86-533, § 1(22), 74 Stat. 249; Apr. 21, 1976, Pub. L. 94-273, § 3(2), 90 Stat. 376.)

CODIFICATION

Section was formerly classified to section 379 of this title. The provisions of section 379 are now covered by section 361h of this title.

AMENDMENTS

1976—Pub. L. 94-273 substituted "October" for "July" in second par.

1960—Pub. L. 86-533 repealed provisions which required the Secretary of Agriculture to make a report to the Congress of the receipts, expenditures and work of the agricultural experiment stations in all the States under the provisions of sections 361a to 361i of this title.

1955—Act Aug. 11, 1955, amended section generally to prescribe the powers and duties of the Secretary of Agriculture, to provide for the determination of the amount of entitlement, to authorize deduction of unexpended balances, and to require reports. Former provisions which stated that the relation of the college to the State was unaffected are now contained in section 361h of this title.

TRANSFER OF FUNCTIONS

All functions of all officers, agencies and employees of the Department of Agriculture were transferred, with certain exceptions, to the Secretary of Agriculture by 1953 Reorg. Plan No. 2, § 1, eff. June 4, 1953, 18 F.R. 3219, 67 Stat. 633, set out as a note under section 2201 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 361c, 361d, 361e, 361g, 361h, 361i, 418, 2242, 2664 of this title; title 16 section 582a-1.

§ 361h. Relation of college or university to State unaffected; division of appropriations

Nothing in sections 361a to 361i of this title shall be construed to impair or modify the legal relation existing between any of the colleges or universities under whose direction State agricultural experiment stations have been established and the government of the States in which they are respectively located. States having agricultural experiment stations separate from such colleges or universities and established by law, shall be authorized to apply such benefits to research at stations so established by such States: *Provided,* That in any State in which more than one such college, university, or agricultural experiment station has been established the appropriations made pursuant to sections 361a to 361i of this title for such State shall be divided between such institutions as the legislature of such State shall direct.

(Mar. 2, 1887, ch. 314, § 8, 24 Stat. 441; Aug. 11, 1955, ch. 790, § 1, 69 Stat. 674.)

CODIFICATION

Section was formerly classified to section 378 of this title.

AMENDMENTS

1955—Act Aug. 11, 1955, amended section generally to provide that the relation between the college and the State is to be unaffected, and to required division of appropriations.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 361c, 361d, 361e, 361g, 361i, 418, 2242, 2664 of this title; title 16 section 582a-1.

§ 361i. Power to amend, repeal, etc., reserved

The Congress may at any time, amend, suspend, or repeal any or all of the provisions of sections 361a to 361i of this title.

(Mar. 2, 1887, ch. 314, § 9, 24 Stat. 442; Aug. 11, 1955, ch. 790, § 1, 69 Stat. 674.)

CODIFICATION

Section was formerly classified to section 368b of this title. The provisions of section 368b have now been eliminated from section 361i of this title.

AMENDMENTS

1955—Act Aug. 11, 1955, amended section generally to reserve the right to Congress to amend, suspend, or repeal any or all of the provisions of sections 361a to 361i of this title, and to eliminate provisions which subjected grants of moneys to the legislative assent of the several States and Territories.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 361c, 361d, 361e, 361g, 361h, 418, 2242, 2664 of this title; title 16 section 582a-1.

§§ 362, 363. Transferred

CODIFICATION

Sections, acts Mar. 2, 1887, ch. 314, §§ 1, 2, 24 Stat. 440; Aug. 11, 1955, ch. 790, § 1, 69 Stat. 671, were transferred to sections 361a and 361b, respectively, of this title.

§ 364. Repealed. Aug. 11, 1955, ch. 790, § 2, 69 Stat. 675

Section, act Mar. 2, 1889, ch. 373, 25 Stat. 840, required all agricultural experiment stations to devote a portion of their work to the examination and classification of the soils of their respective States and Territories.

EXISTING RIGHTS AND LIABILITIES

Any rights or liabilities existing under this section as unaffected by repeal, see section 2 of act Aug. 11, 1955, set out as a note under former section 361 of this title.

§ 365. Transferred

CODIFICATION

Section, acts Mar. 2, 1887, ch. 314, § 4, 24 Stat. 441, Aug. 11, 1955, ch. 790, § 1, 69 Stat. 672, was transferred to section 361d of this title. Former provisions of section 365 of this title which related to issuance and free mailing by stations of bulletins or reports are now contained in section 361f of this title.

§ 366. Repealed. Aug. 11, 1955, ch. 790, § 2, 69 Stat. 674

Section, acts Mar. 16, 1906, ch. 951, § 3, 34 Stat. 63; Feb. 24, 1925, ch. 308, § 3, 43 Stat. 971, provided for annual reports by agricultural experiment stations to governors.

EXISTING RIGHTS AND LIABILITIES

Any rights or liabilities existing under this section as unaffected by repeal, see section 2 of act Aug. 11, 1955, set out as a note under former section 361 of this title.

§ 367. Omitted

CODIFICATION

Section was from act July 28, 1953, ch. 251, title I, § 101, 67 Stat. 207, the Department of Agriculture Appropriation Act, 1954, and authorized the Secretary of Agriculture to prescribe the form of the annual financial statement required from the agricultural experiment stations, and is now covered by section 361e of this title.

SIMILAR PROVISIONS

Similar provisions were contained in the following prior appropriation acts:
July 5, 1952, ch. 574, title I, § 101, 66 Stat. 337.
Aug. 31, 1951, ch. 374, title I, § 101, 65 Stat. 228.
Sept. 6, 1950, ch. 896, ch. VI, title I, § 101, 464 Stat. 660.
June 29, 1949, ch. 280, title I, § 101, 63 Stat. 330.
June 19, 1948, ch. 543, title I, § 1, 62 Stat. 514.
July 30, 1947, ch. 356, title I, § 1, 61 Stat. 530.
June 22, 1946, ch. 445, § 1, 60 Stat. 277.
May 5, 1945, ch. 109, § 1, 59 Stat. 143.
June 28, 1944, ch. 296, § 1, 58 Stat. 432.
July 12, 1943, ch. 215, § 1, 57 Stat. 400.
July 22, 1942, ch. 516, § 1, 56 Stat. 670.
July 1, 1941, ch. 267, § 1, 55 Stat. 412.
June 25, 1940, ch. 421, § 1, 54 Stat. 536.
June 30, 1939, ch. 253, title I, 53 Stat. 944.
June 16, 1938, ch. 464, title I, 52 Stat. 715.
June 29, 1937, ch. 404, 50 Stat. 399.
June 4, 1936, ch. 489, 49 Stat. 1425.
May 17, 1935, ch. 131, title I, § 1, 49 Stat. 251.
Mar. 26, 1934, ch. 89, 48 Stat. 471.
Mar. 3, 1933, ch. 203, 47 Stat. 1435.
July 7, 1932, ch. 443, 47 Stat. 613.
Feb. 23, 1931, ch. 278, 46 Stat. 1246.
May 27, 1930, ch. 341, 46 Stat. 396.
Feb. 16, 1929, ch. 227, 45 Stat. 1192.
May 16, 1928, ch. 572, 45 Stat. 542.
Jan. 18, 1927, ch. 39, 44 Stat. 979.
May 11, 1926, ch. 286, 44 Stat. 502.
Feb. 10, 1925, ch. 200, 43 Stat. 824.

§§ 368 to 368b. Transferred

CODIFICATION

Section 368, acts Mar. 2, 1887, ch. 314, § 3, 24 Stat. 441; Aug. 11, 1955, ch. 790, § 1, 69 Stat. 671, was transferred to section 361c of this title. Former provisions of section 368 which provided for assistance and advice by the Secretary of Agriculture are now covered in section 361g of this title.

Section 368a, acts Mar. 2, 1887, ch. 314, § 5, 24 Stat. 441; Aug. 11, 1955, ch. 790, § 1, 69 Stat. 673, was transferred to section 361e of this title. Former provisions of section 368a which authorized appropriations for investigations and experiments are now contained in sections 361c and 361d of this title.

Section 368b, acts Mar. 8, 1887, ch. 314, § 9, 24 Stat, 442; Aug. 11, 1955, ch. 790, § 1, 69 Stat. 674, was transferred to section 361i of this title. Former provisions of section 368b making grants of money authorized by section 368a of this title subject to the legislative assent of the States and Territories have now been eliminated from section 361i.

§ 368c. Omitted

CODIFICATION

Section, act Mar. 2, 1887, ch. 314, § 10, 24 Stat. 442, which was not reenacted by act Aug. 11, 1955, ch. 790,

69 Stat. 671, reserved the right to Congress to amend, suspend, or repeal any or all of the provisions of act Mar. 2, 1887, and is now covered by section 361i of this title.

§§ 369 to 376. Repealed. Aug. 11, 1955, ch. 790, § 2, 69 Stat. 674

Section 369, act Mar. 16, 1906, ch. 951, § 1, 34 Stat. 63, authorized annual appropriations for agricultural experiment stations, and is now covered by section 361c of this title.

Section 369a, acts June 20, 1936, ch. 631, §§ 1, 2, 49 Stat. 1553, 1554; Aug. 29, 1950, ch. 820, 64 Stat. 563, extended provisions of former sections 343a, 343b, 361, 366, 369, 370, 371, 373 to 376, 380, and 382 of this title to Alaska, and is now covered by section 361a of this title.

Section 370, act Feb. 24, 1925, ch. 308, § 1, 43 Stat. 970, authorized an additional appropriation of $60,000 for each fiscal year, and is now covered by section 361c of this title.

Section 371, acts Mar. 16, 1906, ch. 951, § 2, 34 Stat. 63; Feb. 24, 1925, ch. 308, § 2, 43 Stat. 971, made grants of money authorized for agricultural experiment stations subject to the legislative assent of the several States and Territories.

Section 372, act June 7, 1888, ch. 373, 25 Stat. 176, provided for assent to installments of appropriations when the legislature is not in session.

Section 373, acts Mar. 16, 1906, ch. 951, § 2, 34 Stat. 63; Feb. 24, 1925, ch. 308, § 2, 43 Stat. 971, prescribed the time and manner of payments to agricultural experiment stations and required a report of expenditures to the Secretary of Agriculture, and is now covered by sections 361c and 361e of this title.

Section 374, acts Mar. 16, 1906, ch. 951, § 3, 34 Stat. 63; Feb. 24, 1925, ch. 308, § 3, 43 Stat. 971, required the State to replace moneys misapplied, and is now covered by section 361e of this title.

Section 375, acts Mar. 16, 1906, ch. 951, § 3, 34 Stat. 63; Feb. 24, 1925, ch. 308, § 3, 43 Stat. 971, permitted use of funds for purchase, repairs, etc., of buildings, or for purchase or rental of lands, and is now covered by section 361d of this title.

Section 376, acts Mar. 16, 1906, ch. 951, § 4, 34 Stat. 64; Feb. 24, 1925, ch. 308, § 4, 43 Stat. 971, provided for certification of amounts due States for agricultural experiment stations, for withholding certificate, and for redress by Congress, and is now covered by section 361g of this title.

EXISTING RIGHTS AND LIABILITIES

Any rights or liabilities existing under these sections as unaffected by repeal, see section 2 of act Aug. 11, 1955, set out as a note under former section 361 of this title.

§§ 377 to 379. Transferred

CODIFICATION

Section 377, acts Mar. 2, 1887, ch. 314, § 6, 24 Stat. 441; Aug. 11, 1955, ch. 790, § 1, 69 Stat. 673, was transferred to section 361f of this title. Former provisions of section 377 which related to unexpended part of annual appropriations are now contained in section 361g of this title.

Section 378, acts Mar. 2, 1887, ch. 314, § 8, 24 Stat. 441; Aug. 11, 1955, ch. 790, § 1, 69 Stat. 674, was transferred to section 361h of this title.

Section 379, acts Mar. 2, 1887, ch. 314, § 7, 24 Stat. 441; Aug. 11, 1955, ch. 790, § 1, 69 Stat. 673, was transferred to section 361g of this title. Former provisions of section 379 which provided that the relation of the college to the State was unaffected are now contained in section 361h of this title.

§ 380. Repealed. Aug. 11, 1955, ch. 790, § 2, 69 Stat. 674

Section, acts Mar. 16, 1906, ch. 951, § 5, 34 Stat. 64; Feb. 24, 1925, ch. 308, § 5, 43 Stat. 972, provided for an annual report to Congress, and is now covered by section 361g of this title.

EXISTING RIGHTS AND LIABILITIES

Any rights or liabilities existing under this section as unaffected by repeal, see section 2 of act Aug. 11, 1955, set out as a note under former section 361 of this title.

§ 381. Omitted

CODIFICATION

Section was from act Mar. 2, 1901, ch. 805, 31 Stat. 935, the Agricultural Appropriation Act, 1902, and authorized the Secretary of Agriculture to employ personnel and to incur administrative expenses in carrying out the objects of the agricultural experiment station program, and is now covered by section 361g of this title.

SIMILAR PROVISIONS

Similar provisions were contained in several prior appropriation acts.

§§ 382, 383. Repealed. Aug. 11, 1955, ch. 790, § 2, 69 Stat. 674, 675

Section 382, acts Mar. 16, 1906, ch. 951, § 6, 34 Stat. 64; Feb. 24, 1925, ch. 308, § 6, 43 Stat. 972, reserved the right to Congress to amend, suspend or repeal any and all of the provisions of act Mar. 16, 1906, and is now covered by section 361i of this title.

Section 383, act Oct. 1, 1918, ch. 178, 40 Stat. 998, authorized appropriations for the Georgia Experiment Station and is now covered by section 361c of this title.

EXISTING RIGHTS AND LIABILITIES

Any rights or liabilities existing under these sections as unaffected by repeal, see section 2 of act Aug. 11, 1955, set out as a note under former section 361 of this title.

§ 384. Card index of agricultural literature; copies to be furnished by Secretary

The Secretary of Agriculture may furnish to such institutions or individuals as may care to buy them copies of the card index of agricultural literature prepared by the Department of Agriculture in connection with its administration of the Act of March second, eighteen hundred and eighty-seven [7 U.S.C. 361a et seq.], and the Act of March sixteenth, nineteen hundred and six, and the Acts amendatory of and supplementary thereto, and charge for the same a price covering the additional expenses involved in the preparation of these copies, the money received from such sales to be deposited in the Treasury of the United States as miscellaneous receipts.

(Mar. 4, 1915, ch. 144, 38 Stat. 1109.)

REFERENCES IN TEXT

The Act of March second, eighteen hundred and eighty-seven, referred to in text, is act Mar. 2, 1887, ch. 314, 24 Stat. 440, which is classified to sections 361a to 361i of this title.

The Act of March sixteenth, nineteen hundred and six, referred to in text, means act Mar. 16, 1906, ch. 951, 34 Stat. 63, which was classified to sections 361, 366, 369, 371, 373 to 376, 380, and 382 of this title, and which was repealed by act Aug. 11, 1955, ch. 790, § 2, 69 Stat. 674.

TRANSFER OF FUNCTIONS

All functions of all officers, agencies and employees of the Department of Agriculture were transferred,

with certain exceptions, to the Secretary of Agriculture by 1953 Reorg. Plan No. 2, § 1, eff. June 4, 1953, 18 F.R. 3219, 67 Stat. 633, set out as a note under section 2201 of this title.

§ 385. South Carolina Experiment Station; cooperation by Secretary of Agriculture; lump sum appropriation

There is authorized to be appropriated the sum of $50,000 to enable the Secretary of Agriculture to cooperate with the South Carolina Agricultural Experiment Station and/or other agencies in making investigations and experiments in dairying and livestock industries and of the problems pertaining to the establishment and development of such industries, including cropping systems, soil improvement, and farm organization studies of such industries, and for demonstration, assistance, and service in developing the agriculture of the Sand Hill region of the Southeast.

(Mar. 3, 1927, ch. 367, § 1, 44 Stat. 1397.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 385a of this title.

§ 385a. Authorization of appropriations

There is authorized to be appropriated each fiscal year necessary appropriations to enable the Secretary of Agriculture to carry on the cooperative experiments contemplated by section 385 of this title.

(Mar. 3, 1927, ch. 367, § 2, as added Feb. 4, 1928, ch. 24, 45 Stat. 57.)

§§ 386 to 386f. Repealed. Aug. 11, 1955, ch. 790, § 2, 69 Stat. 674

Sections 386 to 386b, act May 16, 1928, ch. 575, §§ 1 to 3, 45 Stat. 571, 572, provided for the establishment of an experiment station in Hawaii, authorized appropriations and an increase in the permanent annual appropriations, and are now covered by sections 361a and 361c of this title.

Section 386c, act Feb. 23, 1929, ch. 299, 45 Stat. 1256, extended the provisions of the agricultural experiment station program to Alaska, and is now covered by section 361a of this title.

Sections 386d to 386f, acts Mar. 4, 1931, ch. 499, §§ 1 to 3, 46 Stat. 1520, 1521; May 17, 1932, ch. 190, 47 Stat. 158, provided for the establishment of an experiment station in Puerto Rico, authorized appropriations and an increase in the permanent annual appropriations, and are now covered by sections 361a and 361c of this title.

EXISTING RIGHTS AND LIABILITIES

Any rights or liabilities existing under these sections as unaffected by repeal, see section 2 of act Aug. 11, 1955, set out as a note under former section 361 of this title.

§ 386g. Repealed. Oct. 31, 1951, ch. 654, § 1 (10), 65 Stat. 701

Section, act July 7, 1932, ch. 443, § 1, 47 Stat. 614, related to transfer or sale of property of Alaska, Guam, and Virgin Islands stations.

SUBCHAPTER II—EXPERIMENT STATIONS FOR PROPAGATION OF TREES, SHRUBS, VINES, AND VEGETABLES

§ 387. Station for semi-arid or dry-land regions; establishment

The Secretary of Agriculture is authorized and directed to cause such shade, ornamental, fruit, and shelter-belt trees, shrubs, vines, and vegetables as are adapted to the conditions and needs of the semi-arid or dry-land regions of the United States, to be propagated at an experiment station of the Department of Agriculture to be established at or near Cheyenne, Wyoming, and seedlings, and cuttings and seeds of such trees, shrubs, vines, and vegetables to be distributed free of charge under such regulations as he may prescribe for experimental and demonstration purposes within the semi-arid or dry-land regions of the United States.

(Mar. 19, 1928, ch. 228, § 1, 45 Stat. 323.)

TRANSFER OF FUNCTIONS

All functions of all officers, agencies and employees of the Department of Agriculture were transferred, with certain exceptions, to the Secretary of Agriculture by 1953 Reorg. Plan No. 2, § 1, eff. June 4, 1953, 18 F.R. 3219, 67 Stat. 633, set out as a note under section 2201 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 387a of this title.

§ 387a. Authorization of appropriations

There is authorized to be appropriated each fiscal year necessary appropriations to enable the Secretary of Agriculture to carry on the experiments contemplated by section 387 of this title.

(Mar. 19, 1928, ch. 228, § 3, 45 Stat. 323.)

§ 388. Station for southern Great Plains area; establishment

The Secretary of Agriculture is authorized and directed to cause such shade, ornamental, fruit, and shelter-belt trees, shrubs, and vines as are adapted to the conditions and needs of the southern Great Plains area, comprised of those parts of the States of Colorado, Nebraska, Kansas, Texas, Oklahoma, and New Mexico lying west of the ninety-eighth meridian and east of the five thousand-foot contour line, to be propagated at one of the existing field stations of the Department of Agriculture in such area. and seedlings and cuttings and seeds of such trees, shrubs, and vines to be distributed free of charge under such regulations as he may prescribe for experimental and demonstration purposes within such area.

(Apr. 16, 1928, ch. 377, § 1, 45 Stat. 430.)

TRANSFER OF FUNCTIONS

All functions of all officers, agencies and employees of the Department of Agriculture were transferred, with certain exceptions, to the Secretary of Agriculture by 1953 Reorg. Plan No. 2, § 1, eff. June 4, 1953, 18 F.R. 3219, 67 Stat. 633, set out as a note under section 2201 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 388a of this title.

§ 388a. Authorization of appropriations

There is authorized to be appropriated each fiscal year necessary appropriations to enable the Secretary of Agriculture to carry on the experiments contemplated by section 388 of this title.

(Apr. 16, 1928, ch. 377, § 3, 45 Stat. 431.)

§ 389. Transfer of certain dry land and irrigation field stations to States

The Secretary of Agriculture is authorized, at such times as he deems appropriate, to convey by appropriate conveyances, without consideration, the interest of the United States in the lands, including water rights, buildings, and improvements presently comprising or appurtenant to the following dry land and irrigation field stations, to the States in which such stations are located, when, in the opinion of the Secretary of Agriculture, the transfer of any such station will result in establishing a more effective program in the cooperative agricultural experimental work of the Department of Agriculture and the respective State and the furtherance of agricultural experimental work on a national or regional basis will be better served by such transfer: Huntley, Montana; Mitchell, Nebraska; Fallon, Nevada; Tucumcari, New Mexico; Hermiston, Oregon; Sheridan, Wyoming: *Provided,* That when any or all of the land, including water rights, comprising any such station is public-domain land, only the Secretary of the Interior may by patent or other appropriate conveyance transfer such lands to the respective States: *Provided further,* That when any easement necessary to a station conveyed or patented hereunder is on public-domain lands, only the Secretary of the Interior may grant such easements to the State to which the station has been conveyed.

(Sept. 23, 1950, ch. 1005, § 1, 64 Stat. 981.)

TRANSFER OF FUNCTIONS

All functions of all officers, agencies and employees of the Department of Agriculture were transferred, with certain exceptions, to the Secretary of Agriculture by 1953 Reorg. Plan No. 2, § 1, eff. June 4, 1953, 18 F.R. 3219, 67 Stat. 633, set out as a note under section 2201 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 389a of this title.

§ 389a. Conditions of transfer of dry land and irrigation field stations; reservation of mineral rights

Conveyances or patents under this section and section 389 of this title shall be upon such conditions as in the opinion of the Secretary of Agriculture will assure the use of such station in the cooperative agricultural experimental work of the Department of Agriculture and the respective State. Any such conveyances of the land shall contain a reservation to the United States of all the minerals in the land together with the right to prospect for, mine, and remove the same under such regulations as the Secretary of the Interior may prescribe.

(Sept. 23, 1950, ch. 1005, § 2, 64 Stat. 982.)

TRANSFER OF FUNCTIONS

All functions of all officers, agencies and employees of the Department of Agriculture were transferred, with certain exceptions, to the Secretary of Agriculture by 1953 Reorg. Plan No. 2, § 1, eff. June 4, 1953, 18 F.R. 3219, 67 Stat. 633, set out as a note under section 2201 of this title.

SUBCHAPTER III—RESEARCH FACILITIES

§ 390. Congressional declaration of policy

It is hereby declared to be the policy of the Congress to continue its support of agricultural research at the State agricultural experiment stations through Federal-grant funds, on a matching basis, to help finance physical facilities as required for the effective conduct of an adequate research program.

(Pub. L. 88-74, § 1, July 22, 1963, 77 Stat. 90.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 390f of this title.

§ 390a. Congressional declaration of purpose

The purpose of this subchapter is to assist the State agricultural experiment stations in the construction, acquisition, and remodeling of buildings, laboratories, and other capital facilities (including the acquisition of fixtures and equipment which are to become a part of such buildings) which are necessary to more effectively conduct research in agriculture and sciences related thereto through means of grants from the Federal Government.

(Pub. L. 88-74, § 2, July 22, 1963, 77 Stat. 90.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 390b, 390c, 390d, 390f of this title.

§ 390b. Definitions

As used in sections 390a to 390j, inclusive, of this title—

(1) the term "State" shall include Puerto Rico;

(2) the term "State agricultural experiment station" means a department established under the direction of a college or university in any State in accordance with the Act entitled "An Act donating public lands to the several States and Territories which may provide colleges for the benefit of agriculture and mechanic arts", approved July 2, 1862 [7 U.S.C. 301 et seq.]; or a department otherwise established pursuant to standards prescribed by the State the purpose of which is to conduct agricultural research; and

(3) the term "Secretary" shall mean the Secretary of Agriculture.

(Pub. L. 88-74, § 3, July 22, 1963, 77 Stat. 90.)

REFERENCES IN TEXT

The Act approved July 2, 1862, referred to in text, is classified to subchapter I (§ 301 et seq.) of chapter 13 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 390f of this title.

§ 390c. Allocation of funds

(a) Authorization of appropriations

There are hereby authorized to be appropriated for allocation to the States for the purposes of section 390a of this title such sums as the Congress deems advisable.

(b) Distribution formula

(1) One-third of the funds appropriated pursuant to this section for any fiscal year shall be allotted equally among the States.

(2) Two-thirds of the funds appropriated pursuant to this section for any fiscal year shall be allocated among the States as follows: One-half in an amount which bears the same ratio to the total amount to be allotted as the rural population of the State bears to the total rural population of all the States as determined by the last preceding decennial census current at the time each such sum is first appropriated; and one-half in an amount which bears the same ratio to the total amount to be allotted as the farm population of the State bears to the total farm population of all the States as determined by the last preceding decennial census current at the time such sum is first appropriated.

(c) Administration; rules and regulations

It shall be the duty and responsibility of the Secretary to administer the provisions of this section under such rules and regulations as he may prescribe as necessary therefor.

(Pub. L. 88-74, § 4, July 22, 1963, 77 Stat. 91.)

FISCAL YEAR TRANSITION PERIOD OF JULY 1, 1976, THROUGH SEPTEMBER 30, 1976, DEEMED FISCAL YEAR

Fiscal year transition period of July 1, 1976, through Sept. 30, 1976, deemed fiscal year for purposes of subsec. (b) of this section, see section 201(21) of Pub. L. 94-274, set out as a note under section 343 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 390d, 390e, 390f, 390g, 390h of this title.

§ 390d. Eligibility for payments

Any State in order to be eligible for payments from funds allocated pursuant to section 390c of this title shall submit, in such form as the Secretary may require, specific proposals for acquisition or construction of physical facilities defined in section 390a of this title. No State shall receive any payment for any such proposal unless such proposal is approved by the Secretary.

(Pub. L. 88-74, § 5, July 22, 1963, 77 Stat. 91.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 390f of this title.

§ 390e. Matching funds; availability of unused allotments in succeeding fiscal years

(a) No payment shall be made to any State under the provisions of section 390c of this title in any amount greater than the amount made available by such State from non-Federal funds for purposes for which payments are made under such section.

(b) Any unused portion of the allotment of any State for any fiscal year shall remain available, at the option of such State, for payment to such State for a period of not more than two fiscal years following the fiscal year in which such allotment is first made available.

(Pub. L. 88-74, § 6, July 22, 1963, 77 Stat. 91.)

FISCAL YEAR TRANSITION PERIOD OF JULY 1, 1976, THROUGH SEPTEMBER 30, 1976, DEEMED PART OF FISCAL YEAR BEGINNING JULY 1, 1975

Pub. L. 94-274, title II, § 204, Apr. 21, 1976, 90 Stat. 392, as amended by Pub. L. 94-368, § 3(c), July 16, 1976, 90 Stat. 997, provided that:

"The period of July 1, 1976, through September 30, 1976, shall be treated as part of the fiscal year beginning July 1, 1975, for the purposes of the following provisions of law:

"(1) the following provisions of the Public Health Service Act:

section 207(b) (42 U.S.C. 209(b));
section 301(c) (42 U.S.C. 241(c));
section 308(a), and the second sentence of section 308(i)(1) (42 U.S.C. 242m(a) and 242m(i)(1));
sections 314(d)(2)(C) and (d)(6) (42 U.S.C. 246(d)(2)(C) and (d)(6));
section 398 (42 U.S.C. 280b-10);
the last sentence of section 419B (42 U.S.C. 287l);
section 434(f) (42 U.S.C. 289c-1(f));
section 436 (42 U.S.C. 289c-3);
section 437 (42 U.S.C. 289c-4);
section 439(f) (42 U.S.C. 289c-6(e));
the last sentence of section 439(h) (42 U.S.C. 289c-6(g));
section 513 (42 U.S.C. 229b);
section 805(f)(2) (42 U.S.C. 296d (f)(2));
section 1006(a) (42 U.S.C. 300a-4);
section 1009 (42 U.S.C. 300a-6a);
section 1207(a)(2) (42 U.S.C. 300d-6(a)(2));
section 1303(i) (42 U.S.C. 300e-2(i));
section 1304(k) (42 U.S.C. 300e-3(k));
section 1305(e) (42 U.S.C. 300e-4(e));
section 1610(c) (42 U.S.C. 300p(c));
section 1611(d) (42 U.S.C. 300p-1(d));
section 1621 (42 U.S.C. 300q-1);
section 1625 (42 U.S.C. 300r);

"(2) sections 208, 304(a), 307(b), 505(b) [501(b)], 707(a)(4), and the last sentence of section 708 of the Older Americans Act of 1965 (42 U.S.C. 3018, 3024(a), 3027(b), 3041(b), 3045f(a)(4), and 3045g);

"(3) section 503(d) of the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. 4843(d));

"(4) sections 203(d)(2), 204(e)(1), 206(e), 221(b)(2) and (b)(4)(B) of the Community Mental Health Centers Act (42 U.S.C. 2689b(d)(2), 2689c(e)(1), 2689e, 2689i(b)(2) and (b)(4)(B)) [sections 2689b(d)(2), 2689c, 2689e(e), and 2689i(b)(2) and (4)(B) of Title 42, respectively];

"(5) section 417(a)(1) and 437(a) of the General Education Provisions Act (20 U.S.C. 1226c(a)(1) and 1232f(a));

"(6) section 2(c) of the Sudden Infant Death Syndrome Act of 1974 (42 U.S.C. 289g note);

"(7) the following provisions of the Social Security Act:

section 201(c) (42 U.S.C. 401(c));
sections 403(c) and (f) (42 U.S.C. 603(c) and (f));
section 423(c) (42 U.S.C. 623(c));
section 1118 (42 U.S.C. 1318);
section 1817(b) (42 U.S.C. 1395i(b));
section 1841(b) (42 U.S.C. 1395t(b));

"(8) sections 409(c)(2) and 412(d)(2) of the Drug Abuse Office and Treatment Act of 1972 (21 U.S.C. 1176(c)(2) and 1179(d)(2));

"(9) section 302(b) of the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970 (42 U.S.C. 4572(b));

"(10) section 7 of the Act of September 30, 1950 (20 U.S.C. 241-1);

"(11) section 410 of the Act of November 19, 1969 (Public Law 91-121, 50 U.S.C. 1436);

"(12) sections 1012, 1013, and 1014(e)(1) of the Impoundment Control Act of 1974 (Public Law 93-344, 31 U.S.C. 1402, 1403, and 1404(e)(1));

"(13) the Library Services and Construction Act (20 U.S.C. 351-364);

"(14) section 207(b) of the National Productivity and Quality of Working Life Act of 1975 (15 U.S.C. 2417(b)); and

"(15) section 6(b) of the Act of July 22, 1963 (7 U.S.C. 390e(b))."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 390b, 390f, 390g of this title.

§ 390f. Multiple-purpose physical facilities; fund support basis

With respect to multiple-purpose physical facilities, the segment or portion thereof which is to be utilized for agricultural research shall be the basis for determination of fund support under sections 390 to 390k of this title.

(Pub. L. 88-74, § 7, July 22, 1963, 77 Stat. 91.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 390b of this title.

§ 390g. Amount of allocation; ascertainment and notification

For each fiscal year that funds are made available for allocation to States under the provisions of section 390c and section 390e of this title, the Secretary shall ascertain, at the earliest practicable date during such year, the amount of the allocation to which each State is entitled, and shall notify each State in writing promptly thereafter as to the amount of such allocation.

(Pub. L. 88-74, § 8, July 22, 1963, 77 Stat. 91.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 390f of this title.

§ 390h. Fiscal accountability

(a) Directors and treasurers or other officers of State agricultural experiment stations; accounting; reports to Secretary

Any State agricultural experiment station authorized to receive payments under the provisions of section 390c of this title shall have a chief administrative officer, to be known as a director, and a treasurer or other officer appointed by the governing board of such station. Such treasurer or other officer shall receive and account for all funds paid to such station pursuant to the provisions of this subchapter and shall submit a report, approved by the director of such station, to the Secretary on or before the first day of December of each year. Such report shall contain a detailed statement of the amount received under the provisions of this subchapter during the preceding fiscal year, and of its disbursements on schedules prescribed by the Secretary.

(b) Repayment by States of diminished, lost or misapplied funds; subsequent allotments or payments contingent on such repayment

If any portion of the allotted funds received by the authorized receiving officer of any State agricultural experiment station shall by any action or contingency be diminished, lost, or misapplied, it shall be repaid by the State concerned, and until repaid no part of any subsequent appropriation shall be allocated or paid to such State.

(Pub. L. 88-74, § 9, July 22, 1963, 77 Stat. 91; Pub. L. 94-273, § 7(1), Apr. 21, 1976, 90 Stat. 378.)

AMENDMENTS

1976—Subsec. (a). Pub. L. 94-273 substituted "December" for "September".

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 390b, 390f of this title.

§ 390i. Reports to Congress

The Secretary shall make an annual report to the Congress during the first regular session of each year with respect to (1) payments made under this subchapter, (2) the facilities, by States, for which such payments were made, and (3) whether any portion of the appropriation available for allotment to any State has been withheld and, if so, the reasons therefor.

(Pub. L. 88-74, § 10, July 22, 1963, 77 Stat. 92.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 390f of this title.

§ 390j. State agricultural experiment stations eligible for benefits; division of appropriations

(a) Any agricultural experiment station established by State law shall be eligible for benefits under this subchapter.

(b) With respect to any State in which more than one agricultural experiment station has been established, any appropriations allocated for the use of such State pursuant to the provisions of this subchapter shall be divided between or among such institutions as the legislature of such State shall direct.

(Pub. L. 88-74, § 11, July 22, 1963, 77 Stat. 92.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 390b, 390f of this title.

§ 390k. Authorization of appropriations

There is hereby authorized to be appropriated such sums as may be necessary for proper administration of this subchapter.

(Pub. L. 88-74, § 12, July 22, 1963, 77 Stat. 92.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 390b of this title.

CHAPTER 15—BUREAU OF ANIMAL INDUSTRY

Sec.

391. Establishment of bureau; appointment of chief; duties.

392. Repealed.

Sec.
393. Sale of pathological and zoological specimens; disposition of moneys.
394. Overtime of employees engaged in enforcement of Meat Inspection Act.
394a. Overtime of employees working at establishments which prepare virus, serum, toxin, and analogous products.
395. Fees for rabies diagnoses; disposition of moneys.
396. Inspection of livestock, hides, animal products, etc.; place; charges; disposition of funds.
397. Omitted.

CROSS REFERENCES

Animals, meats, and meat and dairy products, see section 603 et seq. of Title 21, Food and Drugs.

Packers and stockyards, see section 181 et seq. of this title.

§ 391. Establishment of bureau; appointment of chief; duties

There shall be in the Department of Agriculture a Bureau of Animal Industry. The Secretary of Agriculture is authorized to appoint a chief thereof, who shall be a competent veterinary surgeon, and whose duty it shall be to investigate and report upon the condition of the domestic animals and live poultry of the United States, their protection and use, and also inquire into and report the causes of contagious, infectious, and communicable diseases among them, and the means for the prevention and cure of the same, and to collect such information on these subjects as shall be valuable to the agricultural and commercial interests of the country.

(May 29, 1884, ch. 60, § 1, 23 Stat. 31; July 14, 1890, ch. 707, 26 Stat. 288; Feb. 7, 1928, ch. 30, 45 Stat. 59.)

CODIFICATION

Section is composed of part of section 1 of act May 29, 1884.

Section 1 of that act as originally enacted contained this further provision: "And the Commissioner of Agriculture is hereby authorized to employ a force sufficient for the purpose, not to exceed 20 persons at any one time." This provision was practically superseded by subsequent appropriations for an enlarged force.

Section 1 also contained a provision as to salary of the Chief of the Bureau and a clerk for said bureau, that has been omitted as obsolete. The salaries are now fixed under chapter 51 and subchapter III of chapter 53 of Title 5, Government Organization and Employees.

AMENDMENTS

1928—Joint Res. Feb. 7, 1928, added "and live poultry" after "domestic animals".

TRANSFER OF FUNCTIONS

Section 301 of 1947 Reorg. Plan No. 1, eff. July 1, 1947, 12 F.R. 4534, 61 Stat. 952, provided: "The functions of the following agencies of the Department of Agriculture, namely, the Bureau of Animal Industry, the Bureau of Dairy Industry, the Bureau of Plant Industry, Soils, and Agricultural Engineering, the Bureau of Entomology and Plant Quarantine, the Bureau of Agricultural and Industrial Chemistry, the Bureau of Human Nutrition and Home Economics, the Office of Experiment Stations, and the Agricultural Research Center, together with the functions of the Agricultural Research Administrator, are transferred to the Secretary of Agriculture and shall be performed by the Secretary or, subject to his direction and control, by such officers and agencies of the Department of Agriculture as he may designate." For provisions concerning transfer of records, property, personnel, and funds, see full text of this Plan, set out in the Appendix to Title 5, Government Organization and Employees.

The President's message, set out in the Appendix to Title 5, Government Organization and Employees, transmitting this Reorg. Plan to Congress pointed out that the Plan would make it possible to continue the consolidation of the agencies concerned in the Agricultural Research Administration which was affected on a temporary wartime basis by Ex. Ord. No. 9069, Feb. 23, 1942, 7 F.R. 1409, and to make further adjustments in the organization of agricultural research activities.

Functions of the Bureau of Animal Industry which were transferred to the Secretary of Agriculture were transferred to the Agricultural Research Service under Secretary's memorandum 1320, supp. 4, of Nov. 2, 1953.

As of July 1, 1927, by order of the Secretary of Agriculture, the Packers and Stockyards administration was abolished, and the enforcement of the Packers and Stockyards Act of 1921, sections 181 to 229 of this title, put under the control of the chief of the Bureau of Animal Industry.

The authority formerly granted to the Commissioner of Agriculture by section 1 of act of May 29, 1884 was vested in the Secretary of Agriculture by act July 14, 1890. See also sections 2202 and 2205 of this title.

The functions of the Bureau of Animal Industry of Agricultural Research Administration concerned primarily with regulatory activities were consolidated with other agencies into the Food Distribution Administration, which was consolidated into the War Food Administration, which was terminated and its functions transferred to the Secretary of Agriculture, by Ex. Ord. No. 9577.

CROSS REFERENCES

Importation of cattle and quarantine, see section 101 et seq. of Title 21, Food and Drugs.

Improvement in the breeding of horses suitable to needs of United States, see section 437 of this title.

Leave of absence of employees of the Bureau of Animal Industry, see section 6301 et seq. of Title 5, Government Organization and Employees.

Penalty for interference with an officer or employee of the Bureau of Animal Industry in the execution of his duties, see section 111 of Title 18, Crimes and Criminal Procedure.

Prevention of introduction and spread of contagion among livestock, see section 111 et seq. of Title 21.

§ 392. Repealed. Oct. 31, 1951, ch. 654, § 1(11), 65 Stat. 701

Section, act Aug. 10, 1912, ch. 284, 37 Stat. 274, which related to sale or exchange of animals not needed, is now covered by section 484 of Title 40, Public Buildings, Property, and Works.

§ 393. Sale of pathological and zoological specimens; disposition of moneys

The Secretary of Agriculture is authorized to prepare and sell at cost such pathological and zoological specimens as he may deem of scientific or educational value to scientists or others engaged in the work of hygiene and sanitation: *Provided,* That all moneys received from the sale of such specimens shall be deposited in the Treasury as miscellaneous receipts.

(Mar. 4, 1913, ch. 145, 37 Stat. 833.)

TRANSFER OF FUNCTIONS

Functions of the Bureau of Animal Industry were transferred to the Secretary of Agriculture by 1947 Reorg. Plan No. 1, § 301, eff. July 1, 1947, 12 F.R. 4534, 61 Stat. 952. See note to section 391 of this title.

§ 394. Overtime of employees engaged in enforcement of Meat Inspection Act

The Secretary of Agriculture is authorized, in his discretion, to pay employees of the Bureau of Animal Industry employed in establishments subject to the provisions of the Meat Inspection Act of June 30, 1906 [21 U.S.C. 601 et seq.], for all overtime work performed at such establishments, at such rates as he may determine, and to accept from such establishments wherein such overtime work is performed reimbursement for any sums paid out by him for such overtime work.

(July 24, 1919, ch. 26, 41 Stat. 241.)

REFERENCES IN TEXT

The Meat Inspection Act, referred to in the text, is classified to subchapters I to IV (§§ 601 et seq., 641 et seq., 661 et seq., and 671 et seq.) of chapter 12 of Title 21, Food and Drugs. For complete classification of this act to the Code, see Short Title note set out under section 601 of Title 21, and Tables volume.

TRANSFER OF FUNCTIONS

Functions of the Bureau of Animal Industry were transferred to the Secretary of Agriculture by 1947 Reorg. Plan No. 1, § 301, eff. July 1, 1947, 12 F.R. 4534, 61 Stat. 952. See note to section 391 of this title.

CROSS REFERENCES

Payment of overtime services or for Sunday or holiday work under this section not prevented by generally applicable premium pay provisions covering government employees, see section 5549 of Title 5, Government Organization and Employees.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 5 section 5549; title 21 section 695.

§ 394a. Overtime of employees working at establishments which prepare virus, serum, toxin, and analogous products

The Secretary of Agriculture is authorized to pay employees of the Bureau of Animal Industry employed in establishments subject to the provisions of section 157 of title 21, for all overtime, night, or holiday work performed at such establishments, at such rates as he may determine, and to accept from such establishments wherein such overtime work is performed reimbursement for any sums paid out by him for such overtime work.

(Aug. 4, 1949, ch. 392, 63 Stat. 495.)

TRANSFER OF FUNCTIONS

Functions of the Bureau of Animal Industry were transferred to the Secretary of Agriculture by 1947 Reorg. Plan No. 1, § 301, eff. July 1, 1947, 12 F.R. 4534, 61 Stat. 952. See note to section 391 of this title.

§ 395. Fees for rabies diagnoses; disposition of moneys

Fees shall be charged for all diagnoses in connection with rabies, except those performed for agencies of the United States Government, in such amounts as the Secretary shall prescribe, and such fees shall be covered into the Treasury as miscellaneous receipts.

(Sept. 21, 1944, ch. 412, title I, § 101(e), 58 Stat. 734.)

SIMILAR PROVISIONS

Provisions similar to this section were contained in the following prior Department of Agriculture Appropriation Acts:
June 28, 1944, ch. 296, § 1, 58 Stat. 433.
July 12, 1943, ch. 215, § 1, 57 Stat. 401.
July 22, 1942, ch. 516, § 1, 56 Stat. 674.

APPROPRIATIONS

Section 101(g) of act Sept. 21, 1944, provided that Congress may appropriate such funds as are necessary to accomplish the purpose of this section.

§ 396. Inspection of livestock, hides, animal products, etc.; place; charges; disposition of funds

The Secretary of Agriculture upon application of any exporter, importer, packer, or owner of, or the agent thereof, or dealer in, livestock, hides, skins, meat, or other animal products may, in his discretion, cause to be made inspections and examinations at places other than the headquarters of inspectors for the convenience of said applicants, who may be charged for the expenses of travel and subsistence incurred for such inspections and examinations, the funds derived from such charges to be deposited in the Treasury of the United States to the credit of the appropriation from which the expenses are paid.

(Sept. 21, 1944, ch. 412, title I, § 101(c), 58 Stat. 734.)

CODIFICATION

Section was formerly classified to section 228a of this title.

SIMILAR PROVISIONS

Provisions similar to this section were carried in the following prior Department of Agriculture Appropriation Acts:
June 28, 1944, ch. 296, § 1, 58 Stat. 433.
July 12, 1943, ch. 215, § 1, 57 Stat. 400.
July 22, 1942, ch. 516, § 1, 56 Stat. 673.
July 1, 1941, ch. 267, § 1, 55 Stat. 415.
June 25, 1940, ch. 421, § 1, 54 Stat. 539.
June 30, 1939, ch. 253, title I, 53 Stat. 948.
June 16, 1938, ch. 464, title I, 52 Stat. 719.
June 29, 1937, ch. 404, 50 Stat. 403.
June 4, 1936, ch. 489, 49 Stat. 1429.

APPROPRIATIONS

Appropriations of funds necessary to accomplish the purpose of this section, see note under section 395 of this title.

§ 397. Omitted

CODIFICATION

Section, acts Aug. 28, 1954, ch. 1041, title II, § 204(e), 68 Stat. 900; Apr. 2, 1956, ch. 159, § 2, 70 Stat. 87, authorized transfer of Commodity Credit Corporation funds not to exceed $17,000,000 for fiscal year ending June 30, 1956 and not to exceed $20,000,000 for each of fiscal years 1957 and 1958 for brucellosis eradication, indemnification for destroyed cattle and administrative expenses and authorized appropriations to reimburse the Commodity Credit Corporation for the expenditures.

CHAPTER 16—BUREAU OF DAIRY INDUSTRY

Sec.
401. Establishment of bureau.
402. Chief of bureau; appointment and duties.
403. Transfer of activities of Department of Agriculture to bureau; employment of clerks, etc.
404. Authorization of appropriations.

CROSS REFERENCES

Filled milk, regulation of, see section 61 et seq. of Title 21, Food and Drugs.

§ 401. Estabishment of bureau

There is established in the Department of Agriculture a bureau to be known as the "Bureau of Dairy Industry."

(May 29, 1924, ch. 208, § 1, 43 Stat. 243; May 11, 1926, ch. 286, 44 Stat. 499.)

CHANGE OF NAME

The "Bureau of Dairying" established by act May 29, 1924 was designated "Bureau of Dairy Industry" by act May 11, 1926.

Bureau of Dairy Industry was consolidated with other agencies into Agricultural Research Administration for duration of World War II by Ex. Ord. No. 9069.

TRANSFER OF FUNCTIONS

Functions of the Bureau of Dairy Industry were transferred to the Secretary of Agriculture by 1947 Reorg. Plan No. 1, § 301, eff. July 1, 1947, 12 F.R. 4534, 61 Stat. 952. See note to section 391 of this title.

§ 402. Chief of bureau; appointment and duties

A Chief of the Bureau of Dairy Industry shall be appointed by the Secretary of Agriculture, who shall be subject to the general direction of the Secretary of Agriculture. He shall devote his time to the investigation of the dairy industry, and the dissemination of information for the promotion of the dairy industry.

(May 29, 1924, ch. 208, § 2, 43 Stat. 243; May 11, 1926, ch. 286, 44 Stat. 499.)

CHANGE OF NAME; TEMPORARY CONSOLIDATION

Change of name of Bureau and temporary wartime consolidation into Agricultural Research Administration, see notes under section 401 of this title.

TRANSFER OF FUNCTIONS

Functions of the Bureau of Dairy Industry were transferred to the Secretary of Agriculture by 1947 Reorg. Plan No. 1, § 301, eff. July 1, 1947, 12 F.R. 4534, 61 Stat. 952. See note under section 391 of this title.

CROSS REFERENCES

Filled milk, regulation of, see section 61 et seq. of Title 21, Food and Drugs.

§ 403. Transfer of activities of Department of Agriculture to bureau; employment of clerks, etc.

For the purpose of enabling the Secretary of Agriculture and the Chief of the Bureau of Dairy Industry to carry out the purposes of this chapter, the Secretary of Agriculture is authorized to transfer to the Bureau of Dairy Industry such activities of the Department of Agriculture as he may designate which relate primarily to the dairy industry, and to employ such additional persons in the city of Washington and elsewhere, as may be necessary.

(May 29, 1924, ch. 208, § 3, 43 Stat. 243; May 11, 1926, ch. 286, 44 Stat. 499.)

CHANGE OF NAME; TEMPORARY CONSOLIDATION

Change of name of Bureau and temporary wartime consolidation into Agricultural Research Administration, see notes under section 401 of this title.

TRANSFER OF FUNCTIONS

All functions of all officers, agencies and employees of the Department of Agriculture were transferred, with certain exceptions, to the Secretary of Agriculture by 1953 Reorg. Plan No. 2, § 1, eff. June 4, 1953, 18 F.R. 3219, 67 Stat. 633, set out as a note under section 2201 of this title.

Functions of the Bureau of Dairy Industry were transferred to the Secretary of Agriculture by 1947 Reorg. Plan No. 1, § 301, eff. July 1, 1947, 12 F.R. 4534, 61 Stat. 952. See note to section 391 of this title.

§ 404. Authorization of appropriations

For the purpose of carrying out the provisions of this chapter and the activities of the Bureau of Dairy Industry, such sums of money as Congress may deem necessary are authorized to be appropriated.

(May 29, 1924, ch. 208, § 4, 43 Stat. 243; May 11, 1926, ch. 286, 44 Stat. 499.)

CHANGE OF NAME; TEMPORARY CONSOLIDATION

Change of name of Bureau and temporary wartime consolidation into Agricultural Research Administration, see notes under section 401 of this title.

TRANSFER OF FUNCTIONS

Functions of the Bureau of Dairy Industry were transferred to the Secretary of Agriculture by 1947 Reorg. Plan No. 1, § 301, eff. July 1, 1947, 12 F.R. 4534, 61 Stat. 952. See note to section 391 of this title.

CHAPTER 17—MISCELLANEOUS MATTERS

Sec.

411. Omitted.
411a. Monthly crop report; contents; issuance; approval by Secretary of Agriculture.
411b. Estimates of apple production.
412, 413. Omitted.
414. Repealed.
414a. Transfer of nonadministrative funds of Commodity Credit Corporation for classing and grading purposes.
415. Purchase of seeds and plants for distribution.
415a. Omitted.
415b. Wool standards; appropriation of certain funds.
415c. Use of funds for dissemination of information relating to standardization, grading, etc., of wool; charge for grading wool.
415d. Rules and regulations for wool standards; deposit of receipts in the Treasury.
415e. Farm or food products; sale of samples, practical forms, etc.
416. Letting contract for packeting, etc., of seeds, etc., for distribution.
417. Distribution of farmers' bulletins.
418. Annual report on work of agricultural experiment stations and of college extension work; publication and distribution.
419. Repealed.
420. Power to administer oaths, examine witnesses, or require production of books, etc.
421. Dairying and livestock experiment station, Mandan, North Dakota.
421a. Omitted.
422. Dairying and livestock experiment station, Lewisburg, Tennessee.
422a. Omitted.
423. Cotton; investigation of new uses; cooperation with State and other agencies.
424. Cotton ginning investigations; publication of results; cooperation with Federal and State departments and agencies.
425. Authorization of appropriations for cotton ginning studies.

Sec.
426. Predatory and other wild animals; eradication and control; investigations, experiments, and tests by Secretary of Agriculture; cooperation with other agencies.
426a. Omitted.
426b. Authorization of expenditures for the eradication and control of predatory and other wild animals.
427. Agriculture research; declaration of policy; duties of Secretary of Agriculture; use of existing facilities.
427a to 427h. Repealed.
427i. Agricultural research; authorization of additional appropriations; administrative expenses; availability of special research fund.
427j. Repealed.
428. Omitted.
428a. Acquisition of land; options.
428b. Wheat and feed grains research; regional and national research programs; utilization of services of Federal, State and private agencies; authorization of appropriations.
428c. Rice research.
(a) Regional and national research programs; rules; purposes.
(b) Utilization of services of Federal, State, local governmental and private agencies; priority consideration.
(c) Authorization of appropriations; use restriction.
429. Improvement of poultry, poultry products, and hatcheries.
430. Purchase and testing of serums or analogous products; dissemination of test results.
431. Purchase of tags, labels, stamps, and certificates.
432. Purchase of cultures for soil and fertilizer investigations.
433. Domestic raising of fur-bearing animals; classification.
434. Transfer of functions, appropriations, records and property to Secretary of Agriculture.
435. Omitted.
436. Transfer of Army Remount Service to Department of Agriculture; effective date.
437. Administration of transferred property; improvement in horse breeding; acquisition of breeding stock and facilities; fees; cooperation with other organizations.
438. Repealed.
439. Operation of Government-owned alcohol plants; location; transfer of plants.
439a. Powers and duties of Secretary of Agriculture.
439b. Recommendations to Congress for discontinuance of plants.
439c. Construction of additional facilities; acquisition of property; incurment of expenses; rules and regulations.
439d. Assumption of obligations of Reconstruction Finance Corporation covering Muscatine, Iowa, plant.
439e. Authorization of appropriations; availability of other appropriations.
440. Reimbursement of appropriations available for classing or grading agriculture commodities without charge.
441. Repealed.
442. Availability of grain to prevent waterfowl depredations; payment of packaging, transporting, handling, and other charges.
443. Requisition of grain to prevent crop depredation by migratory waterfowl.
444. Reimbursement of packaging and transporting expenses.
445. Authorization of appropriations for mitigating losses caused by waterfowl depredation.
446. Repealed.
Sec.
447. Requisition of surplus grain; prevention of starvation of resident game birds and other resident wildlife; utilization by State agencies; reimbursement for packaging and transporting.
448. Requisition and use of grain for prevention of starvation of migratory birds; reimbursement for packaging and transporting.
449. Authorization of appropriations for prevention of starvation of migratory birds.
450. Cooperation with State agencies in administration and enforcement of laws relating to marketing of agricultural products and control or eradication of plant and animal diseases and pests; coordination of administration of Federal and State laws.
450a. Cooperative research projects; agreements with and receipt of funds from State and other agencies.
450b. Cooperation with State and other agencies; expenditures.
450c. Delegation of regulatory functions of Secretary of Agriculture; definitions.
450d. Delegation of regulatory functions to designated employees; status of employees; number; revocation of delegation.
450e. Authority of designated employees; retroactive revocation of delegation.
450f. Delegation of functions under other laws as unaffected.
450g. Authorization of appropriations for cooperative research projects.
450h. Transferred.
450i. Research grants; duration; records; audit.
450j. Indemnity payments to dairy farmers and manufacturers of dairy products; milk removed for its chemical residue content.
450k. Authorization of appropriations for dairy farmer indemnities.
450l. Expiration of dairy farmer indemnity program.

§ 411. Omitted

Codification

Section, act May 11, 1922, ch. 185, 42 Stat. 532, which provided that powers conferred prior to May 11, 1922, and the duties imposed by law on the Bureau of Markets, Bureau of Markets and Crop Estimates, and the Office of Farm Management and Farms Economics of the Department of Agriculture shall be exercised and performed by the Bureau of Agricultural Economics, is omitted as executed and obsolete.

All functions of all officers, agencies and employees of the Department of Agriculture were transferred, with certain exceptions, to the Secretary of Agriculture by 1953 Reorg. Plan No. 2, § 1, eff. June 4, 1953, 18 F.R. 3219, 67 Stat. 633, set out as a note under section 2201 of this title.

Functions of the Bureau of Agricultural Economics were transferred to other units of the Department of Agriculture by Secretary's memorandum of November 2, 1953.

Agricultural Statistics Division of the Agricultural Marketing Service and its functions, personnel, property, etc., transferred to Bureau of Agricultural Economics for duration of World War II, see Ex. Ord. No. 9069.

The functions, personnel and property of the Division of Farm Management and Costs of the Bureau of Agricultural Economics concerned primarily with the planning of current agricultural production were consolidated with other agencies into the Food Production Administration, which was consolidated into the War Food Administration, which was terminated and its functions transferred to the Secretary of Agriculture by Ex. Ord. No. 9577.

§ 411a. Monthly crop report; contents; issuance; approval by Secretary of Agriculture

The monthly crop report, which shall be gathered as far as practicable from practical farmers, shall be printed and distributed on or before the twelfth day of each month, and shall embrace statements of the conditions of crops by States, in the United States, with such explanations, comparisons, and information as may be useful for illustrating the above matter, and it shall be submitted to and officially approved by the Secretary of Agriculture before being issued or published.

(Mar. 4, 1909, ch. 301, 35 Stat. 1053; Mar. 4, 1917, ch. 179, 39 Stat. 1157.)

AMENDMENT

1917—Act Mar. 4, 1917 substituted "shall be printed and distributed on or before the twelfth day of each month" for "and which shall be issued on or before the tenth of each month".

§ 411b. Estimates of apple production

Estimates of apple production shall be confined to the commercial crop.

(Pub. L. 94-351, title I, § 101, July 12, 1976, 90 Stat. 855.)

SIMILAR PROVISIONS

Section is from the Agriculture and Related Agencies Appropriation Act, 1977. Similar provisions were contained in the following prior appropriation acts:
Oct. 21, 1975, Pub. L. 94-122, title I, § 101, 89 Stat. 648.
Dec. 31, 1974, Pub. L. 93-563, title I, § 101, 88 Stat. 1826.
Oct. 24, 1973, Pub. L. 93-135, title I, § 101, 87 Stat. 474.
Aug. 22, 1972, Pub. L. 92-399, title I, § 101, 86 Stat. 596.
Aug. 10, 1971, Pub. L. 92-73, title I, § 101, 85 Stat. 187.
Dec. 22, 1970, Pub. L. 91-566, title I, § 101, 84 Stat. 1487.
Nov. 26, 1969, Pub. L. 91-127, title I, § 101, 83 Stat. 250.
Aug. 8, 1968, Pub. L. 90-463, title I, § 101, 82 Stat. 644.
Oct. 24, 1967, Pub. L. 90-113, title I, § 101, 81 Stat. 325.
Sept. 7, 1966, Pub. L. 89-556, title I, § 101, 80 Stat 694.
Nov. 2, 1965, Pub. L. 89-316, title I, § 101, 79 Stat. 1170.
Sept. 2, 1964, Pub. L. 88-573, title I, § 101, 78 Stat. 867.
Dec. 30, 1963, Pub. L. 88-250, title I, § 101, 77 Stat. 825.
Oct. 24, 1962, Pub. L. 87-879, title I, § 101, 76 Stat. 1208.
July 26, 1961, Pub. L. 87-112, title I, § 101, 75 Stat. 231.
June 29, 1960, Pub. L. 86-532, title I, § 101, 74 Stat. 237.
July 8, 1959, Pub. L. 86-80, title I, § 101, 73 Stat. 127.
June 13, 1958, Pub. L. 85-459, title I, § 101, 72 Stat. 193.
Aug. 2, 1957, Pub. L. 85-118, title I, § 101, 71 Stat. 331.
June 4, 1956, ch. 355, title I, § 101, 70 Stat. 234.
May 23, 1955, ch. 43, title I, § 101, 69 Stat. 57.
June 29, 1954, ch. 409, title I, § 101, 68 Stat. 313.
July 28, 1953, ch. 251, title I, § 101, 67 Stat. 206.
July 5, 1952, ch. 574, title I, § 101, 66 Stat. 336.
Aug. 31, 1951, ch. 374, title I, § 101, 65 Stat. 226.
Sept. 6, 1950, ch. 896, ch. VI, title I, § 101, 64 Stat. 658.
June 29, 1949, ch. 280, title I, § 101, 63 Stat. 328.
June 19, 1948, ch. 543, title I, § 1, 62 Stat. 512.
July 30, 1947, ch. 356, title I, § 1, 61 Stat. 527.
June 22, 1946, ch. 445, § 1, 60 Stat. 274.
May 5, 1945, ch. 109, § 1, 59 Stat. 140.
June 28, 1944, ch. 296, § 1, 58 Stat. 430.
July 12, 1943, ch. 215, § 1, 57 Stat. 398.
July 22, 1942, ch. 516, § 1, 56 Stat. 687.
July 1, 1941, ch. 267, § 1, 55 Stat. 430.
June 25, 1940, ch. 421, § 1, 54 Stat. 555.
June 30, 1939, ch. 253, title I, § 101, 53 Stat. 968.

§§ 412, 413. Omitted

CODIFICATION

Section 412, act May 27, 1912, ch. 135, § 1, 37 Stat. 118, related to July acreage cotton crop report, and is now covered by section 476 of this title.
Section 413, act May 3, 1924, ch. 149, § 1, 37 Stat. 118, related to semimonthly cotton crop reports, and is now covered by section 475 of this title.

§ 414. Repealed. Aug. 9, 1955, ch. 632, § 2, 69 Stat. 553

Section, acts July 5, 1952, ch. 574, title I, § 101, 66 Stat. 348; July 28, 1953, ch. 251, title I, § 101, 67 Stat. 207, related to investigation and certification of any agricultural commodity or food product offered for interstate shipment, and is now covered by section 1622 (h) of this title.

SIMILAR PROVISIONS

Similar provisions were contained in the following prior appropriation acts:
Aug. 31, 1951, ch. 374, title I, § 101, 65 Stat. 238.
Sept. 6, 1950, ch. 896, ch. VI, § 101, 64 Stat. 672.
June 29, 1949, ch. 280, title I, § 101, 63 Stat. 343.
June 19, 1948, ch. 543, title I, § 1, 62 Stat. 527.
July 30, 1947, ch. 356, title I, § 1, 61 Stat. 543.
June 22, 1946, ch. 445, § 1, 60 Stat. 290.
May 5, 1945, ch. 109, § 1, 59 Stat. 158.
June 28, 1944, ch. 296, § 1, 58 Stat. 453.
July 12, 1943, ch. 215, § 1, 57 Stat. 421.
July 22, 1942, ch. 516, § 1, 56 Stat. 687.
July 1, 1941, ch. 267, § 1, 55 Stat. 431.
June 25, 1940, ch. 421, § 1, 54 Stat. 555.
June 30, 1939, ch. 253, title I, 53 Stat. 968.
June 16, 1938, ch. 464, title I, 52 Stat. 740.
June 29, 1937, ch. 404, 50 Stat. 425.
June 4, 1936, ch. 489, 49 Stat. 1450.
May 17, 1935, ch. 131, title I, § 1, 49 Stat. 275.
Mar. 26, 1934, ch. 89, 48 Stat. 493.
Mar. 3, 1933, ch. 203, 47 Stat. 1459.
July 7, 1932, ch. 443, 47 Stat. 637.
Feb. 23, 1931, ch. 278, 46 Stat. 1268.
May 27, 1930, ch. 341, 46 Stat. 418.
Feb. 16, 1929, ch. 227, 45 Stat. 1212.
May 16, 1928, ch. 572, 45 Stat. 561.
Jan. 18, 1927, ch. 39, 44 Stat. 998.
May 11, 1926, ch. 286, 44 Stat. 523.
Feb. 10, 1925, ch. 200, 43 Stat. 844.

§ 414a. Transfer of nonadministrative funds of Commodity Credit Corporation for classing and grading purposes.

On and after August 31, 1951, there may be transferred to appropriations available for classing or grading any agricultural commodity without charge to the producers thereof such sums from nonadministrative funds of the Commodity Credit Corporation as may be necessary in addition to other funds available for these purposes, such transfers to be reimbursed from subsequent appropriations therefor.

(Aug. 31, 1951, ch. 374, title I, § 101, 65 Stat. 239.)

§ 415. Purchase of seeds and plants for distribution

Purchase and distribution of vegetable, field, and flower seeds, plants, shrubs, vines, bulbs, and cuttings shall be of the freshest and best obtainable varieties and adapted to general cultivation.

(R.S. § 527; Apr. 25, 1896, ch. 140, 29 Stat. 106.)

AMENDMENT

1896—Act Apr. 25, 1896, omitted words "by the Department of Agriculture" and "trees", and added words "vegetable, field and flower seeds" and "bulbs".

CROSS REFERENCES

Letting contract for seeds and plants, see section 416 of this title.

§ 415a. Omitted

CODIFICATION

Section was from act June 16, 1938, ch. 464, title I, § 101, 52 Stat. 739, Department of Agriculture Appropriation Act, 1939, related to sale of practical forms of grades of wool and mohair, and is now covered by section 415e of this title.

SIMILAR PROVISIONS

Similar provisions were contained in the following prior appropriation acts:
June 29, 1937, ch. 404, title I, § 101, 50 Stat. 424.
June 4, 1936, ch. 489, title I, § 101, 49 Stat. 1450.
May 17, 1935, ch. 131, title I, § 101, 49 Stat. 275.
Mar. 26, 1934, ch. 89, § 1, 47 Stat. 1458.
July 7, 1932, ch. 443, § 1, 47 Stat. 636.
Feb. 23, 1931, ch. 278, § 1, 46 Stat. 1268.
May 27, 1930, ch. 341, § 1, 46 Stat. 418.
Feb. 16, 1929, ch. 227, § 1, 45 Stat. 1212.
May 16, 1928, ch. 572, § 1, 45 Stat. 561.
Jan. 18, 1927, ch. 39, § 1, 44 Stat. 997.

§ 415b. Wool standards; appropriation of certain funds

There is authorized to be appropriated for expenditure by the Secretary of Agriculture, for the purposes stated in section 415c of this title, all funds prior to or after May 17, 1928, collected by suit, or otherwise, pursuant to appropriations for the completion of the work of the domestic wool section of the War Industries Board, and for enforcing Government regulations for handling the wool clip of 1918 as established by the wool division of said board, pursuant to the Executive order dated December 31, 1918, transferring such work to the Bureau of Markets, now a part of the Bureau of Agricultural Economics of the Department of Agriculture, and for continuing as far as practicable the distribution among the growers of the wool clip of 1918 of all sums prior to or after May 17, 1928, collected or recovered with or without suit by the Government from all persons, firms, or corporations which handled any part of the wool clip of 1918, which he finds it impracticable to distribute among said growers, provided that not to exceed $50,000 may be expended in any fiscal year.

(May 17, 1928, ch. 602, § 1, 45 Stat. 593.)

TRANSFER OF FUNCTIONS

All functions of all officers, agencies and employees of the Department of Agriculture were transferred, with certain exceptions, to the Secretary of Agriculture by 1953 Reorg. Plan No. 2, § 1, eff. June 4, 1953, 18 F.R. 3219, 67 Stat. 633, set out as a note under section 2201 of this title.

Functions of the Bureau of Agricultural Economics were transferred to other units of the Department of Agriculture by Secretary's memorandum of November 2, 1953.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 415c, 415d of this title.

§ 415c. Use of funds for dissemination of information relating to standardization, grading, etc., of wool; charge for grading wool

The funds referred to in section 415b of this title may be used for the purpose of acquiring and diffusing among the people of the United States useful information relative to the standardization, grading, preparation for market, marketing, utilization, transportation, handling, and distribution of wool, and of approved methods and practices relative thereto, including the demonstration and promotion of the use of grades for wool in accordance with standards therefor which the Secretary of Agriculture is authorized to establish. Said funds may be used for the grading of wool, and for such grading or other service rendered under sections 415b to 415d of this title reasonable fees may be charged, and *provided further,* That after May 17, 1928, reasonable charges may be made for practical forms of grades for wool.

(May 17, 1928, ch. 602, § 2, 45 Stat. 593.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 415b, 415d of this title.

§ 415d. Rules and regulations for wool standards; deposit of receipts in the Treasury

The Secretary of Agriculture may make such rules and regulations as he deems advisable for carrying out any of the provisions of sections 415b and 415c of this title. All receipts under sections 415b to 415d of this title shall be deposited in the Treasury to the credit of miscellaneous receipts.

(May 17, 1928, ch. 602, § 3, 45 Stat. 594.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 415c of this title.

§ 415e. Farm or food products; sale of samples, practical forms, etc.

The Secretary of Agriculture is authorized to sell samples, illustrations, practical forms, or sets of the grades recommended or promulgated by him for farm or food products, under such rules and regulations as he may prescribe, and the receipts therefrom shall be deposited in the Treasury to the credit of miscellaneous receipts.

(Sept. 21, 1944, ch. 412, title IV, § 401(a), 58 Stat. 738.)

SIMILAR PROVISIONS

Provisions similar to this section were contained in the following Department of Agriculture Appropriation Acts:
June 28, 1944, ch. 296, § 1, 58 Stat. 454.
July 12, 1943, ch. 215, § 1, 57 Stat. 421.

July 22, 1942, ch. 516, § 1, 56 Stat. 688.
July 1, 1941, ch. 267, § 1, 55 Stat. 431.
June 25, 1940, ch. 421, § 1, 54 Stat. 555.
June 30, 1939, ch. 253, title I, 53 Stat. 968.

§ 416. Letting contract for packeting, etc., of seeds, etc., for distribution

The Secretary of Agriculture, after due advertisement and on competitive bids, is authorized to award the contract for the supplying of printed packets and envelopes and the packeting, assembling, and mailing of the seeds, bulbs, shrubs, vines, cuttings, and plants, or any part thereof, for a period of not more than five years nor less than one year, if by such action he can best protect the interests of the United States.

(May 11, 1922, ch. 185, 42 Stat. 517.)

CODIFICATION

Section is from the Agriculture Department Appropriation Act, 1923.

CROSS REFERENCES

Purchase of seeds and plants for distribution, see section 415 of this title.

§ 417. Distribution of farmers' bulletins

In the distribution of farmers' bulletins, which shall be adapted to the interests of the people of the different sections of the country, an equal proportion of four-fifths shall be delivered to or sent out under the addressed franks furnished by Senators, Representatives, and Delegates in Congress, as such Senators, Representatives, or Delegates shall direct: *Provided,* That the Secretary of Agriculture shall notify Senators, Representatives, and Delegates in Congress of the title and character of each such bulletin, with the total number to which each Senator, Representative, and Delegate may be entitled for such distribution; and on the face of the envelope inclosing said bulletins shall be printed the title of each bulletin contained therein.

(June 30, 1906, ch. 3913, 34 Stat. 690.)

CODIFICATION

Section is derived from an Appropriation Act for the Department of Agriculture, 1907. The last proviso of section relating to farmers' bulletins not called for in quotas of Senators and Representatives has been omitted as obsolete in view of Attorney General's opinion, 27 Op. Atty. Gen. 288.

§ 418. Annual report on work of agricultural experiment stations and of college extension work; publication and distribution

There shall be prepared by the Department of Agriculture an annual report on the work and expenditures of the agricultural experiment stations established under the Act of Congress of March second, eighteen hundred and eighty-seven [7 U.S.C. 361a et seq.], on the work and expenditures of the Department of Agriculture in connection therewith, and on the cooperative agricultural extension work and expenditures of the Department of Agriculture and of agricultural colleges under the Act of May eighth, nineteen hundred and fourteen [7 U.S.C. 341 et seq.], and there shall be printed annually eight thousand copies of said report, of which one thousand copies shall be for the use of the Senate, two thousand copies for the use of the House of Representatives, and five thousand copies for the use of the Department of Agriculture.

(Mar. 4, 1915, ch. 144, 38 Stat. 1110.)

REFERENCES IN TEXT

The Act of Congress of March second, eighteen hundred and eighty-seven, referred to in text, is act Mar. 2, 1887, ch. 314, 24 Stat. 440, as amended, known as the Hatch Act, which is classified generally to sections 361a to 361i of this title. For complete classification of this Act to the Code, see Tables volume.

The Act of May eighth, nineteen hundred and fourteen, referred to in text, is act May 8, 1914, ch. 79, 38 Stat. 372, which is classified generally to subchapter IV (§ 341 et seq.) of chapter 13 of this title. For complete classification of this Act to the Code, see Tables volume.

TRANSFER OF FUNCTIONS

All functions of all officers, agencies and employees of the Department of Agriculture were transferred, with certain exceptions, to the Secretary of Agriculture by 1953 Reorg. Plan No. 2, § 1, eff. June 4, 1953, 18 F.R. 3219, 67 Stat. 633, set out as a note under section 2201 of this title.

CROSS REFERENCES

Secretary of Agriculture as required to prescribe form of financial statement for agricultural experiment stations, see section 361e of this title.

§ 419. Repealed. Oct. 31, 1951, ch. 654, § 1(12), 65 Stat. 701

Section, act May 5, 1945, ch. 109, § 1, 59 Stat. 143, which related to sale by Secretary of Agriculture of products of agricultural experiment station in Puerto Rico, and disposition of moneys derived therefrom, is now covered by section 484 of Title 40, Public Buildings, Property, and Works. Similar provisions had been carried in prior Department of Agriculture appropriation acts back to and including that for the fiscal year ending June 30, 1919 (40 Stat. 1000).

SIMILAR PROVISIONS

Similar provisions were contained in the following acts:
June 28, 1944, ch. 296, § 1, 58 Stat. 432.
July 12, 1943, ch. 215, § 1, 57 Stat. 400.
July 22, 1942, ch. 516, § 1, 56 Stat. 670.
July 1, 1941, ch. 267, § 1, 55 Stat. 413.
June 25, 1940, ch. 421, § 1, 54 Stat. 536.
June 30, 1939, ch. 253, title I, 53 Stat. 944.
June 16, 1938, ch. 464, title I, 52 Stat. 715.
June 29, 1937, ch. 404, 50 Stat. 399.
June 4, 1936, ch. 489, 49 Stat. 1425.
May 17, 1935, ch. 131, title I, § 1, 49 Stat. 251.
Mar. 26, 1934, ch. 89, 48 Stat. 471.
Mar. 3, 1933, ch. 203, 47 Stat. 1436.
July 7, 1932, ch. 443, 47 Stat. 614.
May 17, 1932, ch. 190, 47 Stat. 158.
Feb. 23, 1931, ch. 278, 46 Stat. 1246.
May 27, 1930, ch. 341, 46 Stat. 396.
Feb. 16, 1929, ch. 227, 45 Stat. 1192.
May 16, 1928, ch. 572, 45 Stat. 542.
Jan. 18, 1927, ch. 39, 44 Stat. 979.
May 11, 1926, ch. 286, 44 Stat. 502.
Feb. 10, 1925, ch. 200, 43 Stat. 824.

§ 420. Power to administer oaths, examine witnesses, or require production of books, etc.

In the performance of the duties required of the Bureau of Agricultural Economics in the administration or enforcement of provisions of Acts (United States Cotton Futures Act,

Thirty-ninth Statutes at Large, page 476; United States Grain Standards Act, Thirty-ninth Statutes at Large, page 482 [7 U.S.C. 71 et seq.], United States Warehouse Act, Thirty-ninth Statutes at Large, page 486 [7 U.S.C. 241 et seq.]; Standard Container Act, Thirty-ninth Statutes at Large, page 673; and the Acts making annual appropriations for the Department of Agriculture) relating to the Department of Agriculture, the Secretary of Agriculture, or any representative specifically authorized in writing by him for the purpose, shall have power to administer oaths, examine witnesses, and call for the production of books and papers.

(July 24, 1919, ch. 26, 41 Stat. 267; May 11, 1922, ch. 185, 42 Stat. 532.)

REFERENCES IN TEXT

The United States Cotton Futures Act, referred to in text, is act Aug. 11, 1916, ch. 313, part A, 39 Stat. 476, as amended, which was repealed by section 4 of act Feb. 10, 1939, ch. 2, 53 Stat. 1.

United States Grain Standards Act, referred to in text, is act Aug. 11, 1916, ch. 313, Part B, 39 Stat. 482, which is classified to chapter 3 (§ 71 et seq.) of this title.

United States Warehouse Act, referred to in text, is act Aug. 11, 1916, ch. 313, Part C, 39 Stat. 486, which is classified to chapter 10 (§ 241 et seq.) of this title.

The Standard Container Act, referred to in the text, formerly set out as sections 251 to 256 of Title 15, Commerce and Trade, was repealed by Pub. L. 90-628, § 1(a), Oct. 22, 1968, 82 Stat. 1320.

TRANSFER OF FUNCTIONS

All functions of all officers, agencies and employees of the Department of Agriculture were transferred, with certain exceptions, to the Secretary of Agriculture by 1953 Reorg. Plan No. 2, § 1, eff. June 4, 1953, 18 F.R. 3219, 67 Stat. 633, set out as a note under section 2201 of this title.

Functions of the Bureau of Agricultural Economics were transferred to other units of the Department of Agriculture by Secretary's memorandum of November 2, 1953.

Act May 11, 1922 transferred powers of former "Bureau of Markets, Bureau of Markets and Crop Estimates, and the Office of Farm Management and Farm Economics" to "Bureau of Agricultural Economics".

§ 421. Dairying and livestock experiment station, Mandan, North Dakota

The Secretary of Agriculture is authorized and directed to establish at Mandan, North Dakota, a dairying and livestock experiment station, in connection with the Great Plains Experiment Station, for investigations and experiments in the dairy and livestock industries and the problems pertaining to the establishment and development of such industries, and for demonstrations, assistance, and service in livestock breeding, growing, and feeding.

(July 3, 1926, ch. 769, § 1, 44 Stat. 840.)

§ 421a. Omitted

CODIFICATION

Section, act July 3, 1926, ch. 769, § 2, 44 Stat. 840, appropriated $25,000 to effectuate the purposes of section 421 of this title.

§ 422. Dairying and livestock experiment station, Lewisburg, Tennessee

The Secretary of Agriculture is authorized and directed to establish at or near Lewisburg, Tennessee, a dairying station for investigations, experiments, and demonstrations in the dairy industry, and the problems pertaining to the development of such industry in the South, and for investigations, demonstrations, assistance, and service in dairy livestock breeding, growing, and feeding, and dairy products manufacture.

(May 29, 1928, ch. 892. § 1, 45 Stat. 981.)

§ 422a. Omitted

CODIFICATION

Section, act May 29, 1928, ch. 892, § 2, 45 Stat. 981, appropriated $50,000 for the purposes of section 422 of this title.

§ 423. Cotton; investigation of new uses; cooperation with State and other agencies

The Secretary of Agriculture and the Secretary of Commerce are authorized to engage in technical and scientific research in American-grown cotton and its byproducts and their present and potential uses, including new and additional commercial and scientific uses for cotton and its byproducts, and to diffuse such information among the people of the United States; and the Secretary of Agriculture and the Secretary of Commerce or their duly authorized representatives may cooperate with any department or agency of the Government, any State, Territory, District, or possession or department, agency, or political subdivision thereof, or any person in carrying out the purposes of this section in the District of Columbia and elsewhere.

(Apr. 12, 1928, ch. 362, 45 Stat. 426.)

§ 424. Cotton ginning investigations; publication of results; cooperation with Federal and State departments and agencies

The Secretary of Agriculture is authorized to investigate the ginning of cotton; to establish and maintain experimental ginning plants and laboratories; and to make such tests, demonstrations, and experiments, and such technical and scientific studies in relation to cotton ginning as he shall deem necessary and to publish the results thereof, with a view to developing improved ginning equipment and encouraging the use of improved methods, and he may cooperate with any department or agency of the Government, any State, Territory, District, or possession, or department, agency, or political subdivision thereof, or any person, as he shall find to be necessary.

(Apr. 19, 1930, ch. 203, § 1, 46 Stat. 248.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 425 of this title.

§ 425. Authorization of appropriations for cotton ginning studies

For the purposes of section 424 of this title there is authorized to be appropriated, after June 30, 1931, out of any money in the Treasury not otherwise appropriated, such sums as may be necessary.

(Apr. 19, 1930, ch. 203, § 2, 46 Stat. 248.)

§ 426. Predatory and other wild animals; eradication and control; investigations, experiments, and tests by Secretary of Agriculture; cooperation with other agencies

The Secretary of Agriculture is authorized and directed to conduct such investigations, experiments, and tests as he may deem necessary in order to determine, demonstrate, and promulgate the best methods of eradication, suppression, or bringing under control on national forests and other areas of the public domain as well as on State, Territory, or privately owned lands of mountain lions, wolves, coyotes, bobcats, prairie dogs, gophers, ground squirrels, jack rabbits, and other animals injurious to agriculture, horticulture, forestry, animal husbandry, wild game animals, fur-bearing animals, and birds, and for the protection of stock and other domestic animals through the suppression of rabies and tularemia in predatory or other wild animals; and to conduct campaigns for the destruction or control of such animals: *Provided,* That in carrying out the provisions of this section the Secretary of Agriculture may cooperate with States, individuals, and public and private agencies, organizations, and institutions.

(Mar. 2, 1931, ch. 370, § 1, 46 Stat. 1468.)

TRANSFER OF FUNCTIONS

Functions of Secretary of Agriculture administered through the Bureau of Biological Survey, relating to conservation of wildlife, game, and migratory birds were transferred to Secretary of Interior by 1939 Reorg. Plan No. II, § 4(f), eff. July 1, 1939, set out in the Appendix to Title 5, Government Organization and Employees. See also sections 401 to 404 of said plan for provisions relating to transfer of functions, records, property, personnel, and funds.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 426b of this title.

§ 426a. Omitted

CODIFICATION

Section, act Mar. 2, 1931, ch. 370, § 2, 46 Stat. 1469, related to authorization of $1,000,000, per year for fiscal years 1932 to 1941, inclusive.

§ 426b. Authorization of expenditures for the eradication and control of predatory and other wild animals

The Secretary of Agriculture is authorized to make such expenditures for equipment, supplies, and materials, including the employment of persons and means in the District of Columbia and elsewhere, and to employ such means as may be necessary to execute the functions imposed upon him by section 426 of this title.

(Mar. 2, 1931, ch. 370, § 3.46 Stat. 1469.)

§ 427. Agriculture research; declaration of policy; duties of Secretary of Agriculture; use of existing facilities

It is declared to be the policy of the Congress to promote the efficient production and utilization of products of the soil as essential to the health and welfare of our people and to promote a sound and prosperous agriculture and rural life as indispensable to the maintenance of maximum employment and national prosperity. It is also the intent of Congress to assure agriculture a position in research equal to that of industry which will aid in maintaining an equitable balance between agriculture and other sections of our economy. For the attainment of these objectives, the Secretary of Agriculture is authorized and directed to conduct and to stimulate research into the laws and principles underlying the basic problems of agriculture in its broadest aspects, including but not limited to: Research relating to the improvement of the quality of, and the development of new and improved methods of the production, marketing, distribution, processing, and utilization of plant and animal commodities at all stages from the original producer through to the ultimate consumer; research into the problems of human nutrition and the nutritive value of agricultural commodities, with particular reference to their content of vitamins, minerals, amino and fatty acids, and all other constituents that may be found necessary for the health of the consumer and to the gains or losses in nutritive value that may take place at any stage in their production, distribution, processing, and preparation for use by the consumer; research relating to the development of present, new, and extended uses and markets for agricultural commodities and byproducts as food or in commerce, manufacture, or trade, both at home and abroad, with particular reference to those foods and fibers for which our capacity to produce exceeds or may exceed existing economic demand; research to encourage the discovery, introduction, and breeding of new and useful agricultural crops, plants, and animals, both foreign and native, particularly for those crops and plants which may be adapted to utilization in chemical and manufacturing industries; research relating to new and more profitable uses for our resources of agricultural manpower, soils, plants, animals, and equipment than those to which they are now, or may hereafter be, devoted; research relating to the conservation, development, and use of land, forest, and water resources for agricultural purposes; research relating to the design, development, and the more effcient and satisfactory use of farm buildings, farm homes, farm machinery, including the application of electricity and other forms of power; research relating to the diversification of farm enterprises, both as to the type of commodities produced, and as to the type of operations performed, on the individual farm; research relating to any other laws and principles that may contribute to the establishment and maintenance of a permanent and effective agricultural industry including such investigations as have for their purpose the development and improvement of the rural home and rural life, and the maximum contribution by agriculture to the welfare of the consumer and the maintenance of maximum employment and national prosperity; and such other researches or experiments bearing on the agricultural industry or on rural homes of the United States as may in each case be deemd [1] advisable, having due regard to the varying conditions and needs of Puerto Rico, the respective States, and Territories. In effectuating the pur-

[1] So in original.

poses of this section, maximum use shall be made of existing research facilities owned or controlled by the Federal Government or by State agricultural experiment stations and of the facilities of the Federal and State extension services. Research authorized under this section shall be in addition to research provided for under existing law (but both activities shall be coordinated so far as practicable).

(June 29, 1935, ch. 338, § 1, 49 Stat. 436; Aug. 14, 1946, ch. 966, title I, § 101, 60 Stat. 1082.)

AMENDMENTS

1946—Act Aug. 14, 1946, amended section generally to provide for a greatly augmented research program in order to enable agriculture to attain a position in research comparable to that of other industries.

TRANSFER OF FUNCTIONS

All functions of all officers, agencies and employees of the Department of Agriculture were transferred, with certain exceptions, to the Secretary of Agriculture by 1953 Reorg. Plan No. 2, § 1, eff. June 4, 1953, 18 F.R. 3219, 67 Stat. 633, set out as a note under section 2201 of this title.

SIMILAR PROVISIONS

For other provisions authorizing agricultural research and investigations, see section 361b of this title.

MINIMUM SUM FOR CONTRACTING

Minimum of $1,500,000 of appropriations of Department of Agriculture for research and service work authorized by this section and section 1621 et seq. of this title as available for contracting in accordance therewith, see section 1623a of this title.

CROSS REFERENCES

Appropriations for cooperative research with State agricultural experiment stations and other appropriate agencies, see section 427i of this title.

Development of new uses for cotton, see section 724 of this title.

Research to discover new uses and markets for commodities, see section 1292 of this title.

EX. ORD. NO. 9310. TRANSFERRING NUTRITION FUNCTIONS OF OFFICE OF DEFENSE HEALTH AND WELFARE SERVICES TO DEPARTMENT OF AGRICULTURE.

Ex. Ord. No. 9310, Mar. 6, 1943, 8 F.R. 2913, provided:

By virtue of the authority vested in me by Title I of the First War Powers Act, 1941 [former sections 601 to 605 of Appendix to Title 50, War and National Defense], as President of the United States, and in order to enable the Secretary of Agriculture more effectively to carry out his responsibilities with respect to the Nation's food program, it is hereby ordered:

1. The functions, powers, and duties, with respect to nutrition, (a) of the Office of Defense Health and Welfare Services in the Office for Emergency Management of the Executive Office of the President (including all functions, powers, and duties of the Nutrition Division of the Office of Defense Health and Welfare Services), and (b) of the Director of the Office of Defense Health and Welfare Services, are transferred to the Department of Agriculture and shall be administered under the supervision and direction of the Secretary of Agriculture through such agency or agencies in the Department as the Secretary shall designate.

2. The personnel, property, and records used primarily in the administration of the functions, powers, and duties transferred by this Order are transferred to the Department of Agriculture. So much of the unexpended balances of appropriations, allocations, and other funds available for the use of the Office of Defense Health and Welfare Services in discharging the functions, powers, and duties transferred by this Order, as the Director of the Bureau of the Budget shall determine, shall be transferred to the Department of Agriculture for use in connection with the exercise of the functions, powers, and duties so transferred. In determining the amounts to be transferred hereunder, allowance shall be made for the liquidation of obligations previously incurred against such appropriations, allocations, or other funds.

FRANKLIN D. ROOSEVELT.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 361a, 427i, 1623a, 1628, 1629 of this title.

§§ 427a to 427h. Repealed. Aug. 11, 1955, ch. 790, § 2, 69 Stat. 674

Sections 427a to 427c, act June 29, 1935, ch. 338, §§ 2 to 4, 49 Stat. 437, authorized research by experiment stations, appropriations, and allocation of appropriations, and are now covered by sections 361a to 361c of this title.

Section 427d, acts June 29, 1935, ch. 338, § 5, 49 Stat. 437; Sept. 21, 1944, ch. 412, title I, § 105, 58 Stat. 735, related to allocation of appropriations, and is now covered by section 361c of this title.

Sections 427e to 427g, act June 29, 1935, ch. 338, §§ 6 to 8, 49 Stat. 438, defined "Territory", authorized the Secretary of Agriculture to prescribe rules and regulations, and reserved the right to Congress to amend, suspend, or repeal act June 29, 1935, and are now covered by sections 361a, 361g, and 361i, respectively, of this title.

Section 427h, act June 29, 1935, ch. 338, § 9, as added Aug. 14, 1946, ch. 966, title I, § 101, 60 Stat. 1083, authorized appropriations for agricultural experiment stations, provided for availability of funds and unexpended balances, and prescribed allotments for the experiment stations, and is now covered by sections 361c, 361d, and 361g of this title.

EXISTING RIGHTS AND LIABILITIES

Any rights or liabilities existing under these sections as unaffected by repeal, see section 2 of act Aug. 11, 1955, set out as a note under former section 361 of this title.

§ 427i. Agricultural research; authorization of additional appropriations; administrative expenses; availability of special research fund

(a) In order to carry out further research on utilization and associated problems in connection with the development and application of present, new, and extended uses of agricultural commodities and products thereof authorized by section 427 of this title, and to disseminate information relative thereto, and in addition to all other appropriations authorized by sections 427 to 427j of this title, there is authorized to be appropriated the following sums:

(1) $3,000,000 for the fiscal year ending June 30, 1947, and each subsequent fiscal year.

(2) An additional $3,000,000 for the fiscal year ending June 30, 1948, and each subsequent fiscal year.

(3) An additional $3,000,000 for the fiscal year ending June 30, 1949, and each subsequent fiscal year.

(4) An additional $3,000,000 for the fiscal year ending June 30, 1950, and each subsequent fiscal year.

(5) An additional $3,000,000 for the fiscal year ending June 30, 1951, and each subsequent fiscal year.

(6) In addition to the foregoing, such additional funds beginning with the fiscal year ending June 30, 1952, and thereafter, as the Congress may deem necessary.

The Secretary of Agriculture, in accordance with such regulations as he deems necessary, and when in his judgment the work to be performed shall be carried out more effectively, more rapidly, or at less cost than if performed by the Department of Agriculture, may enter into contracts with such public or private organizations or individuals as he may find qualified to carry on work under this section without regard to the provisions of section 5 of title 41, and with respect to such contracts he may make advance progress or other payments without regard to the provisions of section 529 of title 31. Contracts under this section may be made for work to continue not more than four years from the date of any such contract. Notwithstanding the provisions of section 713 of title 31, any unexpended balances of appropriations properly obligated by contracting with an organization as provided in this subsection may remain upon the books of the Treasury for not more than five fiscal years before being carried to the surplus fund and covered into the Treasury. Research authorized under this subsection shall be conducted so far as practicable at laboratories of the Department of Agriculture. Projects conducted under contract with public and private agencies shall be supplemental to and coordinated with research of these laboratories. Any contracts made pursuant to this authority shall contain requirements making the results of research and investigations available to the public through dedication, assignment to the Government, or such other means as the Secretary shall determine.

(b) In order to carry out further the purposes of section 427 of this title, other than research on utilization of agricultural commodities and the products thereof, and in addition to all other appropriations authorized by sections 427 to 427j of this title, there is authorized to be appropriated for cooperative research with the State agricultural experiment stations and such other appropriate agencies as may be mutually agreeable to the Department of Agriculture and the experiment stations concerned, the following sums:

(1) $1,500,000 for the fiscal year ending June 30, 1947, and each subsequent fiscal year.

(2) An additional $1,500,000 for the fiscal year ending June 30, 1948, and each subsequent fiscal year.

(3) An additional $1,500,000 for the fiscal year ending June 30, 1949, and each subsequent fiscal year.

(4) An additional $1,500,000 for the fiscal year ending June 30, 1950, and each subsequent fiscal year.

(5) In addition to the foregoing such additional funds beginning with the fiscal year ending June 30, 1951, and thereafter, as the Congress may deem necessary.

(c) The Secretary may incur necessary administrative expenses not to exceed 3 per centum of the amount appropriated in any fiscal year in carrying out this section, including the specific objects of expense enumerated in section 427b of this title.

(d) The "Special research fund, Department of Agriculture," provided by section 427c of this title, shall continue to be available solely for research into laws and principles underlying basic problems of agriculture in its broadest aspects; research relating to the improvement of the quality of, and the development of, new and improved methods of production of, distribution of, and new and extended uses and markets for, agricultural commodities and byproducts and manufactures thereof; and research relating to the conservation, development, and use of land and water resources for agricultural purposes. Such research shall be in addition to research provided for under other law (but both activities shall be coordinated so far as practicable) and shall be conducted by such agencies of the Department of Agriculture as the Secretary of Agriculture may designate or establish.

(e) Appropriations for research work in the Department of Agriculture shall be available for accomplishing such purposes by contract through the means provided in subsection (a) of this section.

(June 29, 1935, ch. 338, § 10, as added Aug. 14, 1946, ch. 966, title I, § 101, 60 Stat. 1085, and amended July 28, 1954, ch. 591, 68 Stat. 574.)

REFERENCES IN TEXT

Section 713 of title 31, referred to in subsec. (a), was repealed by act July 6, 1949, ch. 299, § 3, 63 Stat. 407.

Sections 427 to 427j of this title, referred to in the text, were, with the exception of section 427 and this section, repealed by act Aug. 11, 1955, ch. 790, § 2, 69 Stat. 674. See sections 361a to 361i of this title.

AMENDMENTS

1954—Subsec. (e). Act July 23, 1954, added subsec. (e).

TRANSFER OF FUNCTIONS

All functions of all officers, agencies and employees of the Department of Agriculture were transferred, with certain exceptions, to the Secretary of Agriculture by 1953 Reorg. Plan No. 2, § 1, eff. June 4, 1953, 18 F.R. 3219, 67 Stat. 633, set out as a note under section 2201 of this title.

FISCAL YEAR TRANSITION PERIOD OF JULY 1, 1976, THROUGH SEPTEMBER 30, 1976, DEEMED FISCAL YEAR

Fiscal year transition period of July 1, 1976, through Sept. 30, 1976, deemed fiscal year for purposes of subsec. (c) of this section, see section 201(8) of Pub. L. 94-274, set out as a note under section 343 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 361a, 1623a, 1629 of this title; title 21 section 113a.

§ 427j. Repealed. Aug. 11, 1955, ch. 790, § 2, 69 Stat. 674

Section, act June 29, 1935, ch. 338, § 11, as added Aug. 14, 1946, ch. 966, title I, § 101, 60 Stat. 1086, and amended July 31, 1947, ch. 412, 61 Stat. 694; Aug. 30, 1954, ch. 1076, § 1(7), 68 Stat. 966, authorized the use of funds appropriated for the agricultural research program for market research projects and required an annual report to Congress, and is now covered by sections 361a to 361h of this title.

EXISTING RIGHTS AND LIABILITIES

Any rights or liabilities existing under this section as unaffected by repeal, see section 2 of act Aug. 11, 1955, set out as a note under former section 361 of this title.

§ 428. Omitted

CODIFICATION

Section, act June 4, 1956, ch. 355, title V, § 503, 70 Stat. 240, related to options to purchase lands and was superseded by section 428a of this title.

SIMILAR PROVISIONS

Similar provisions were contained in the following prior appropriations acts:
May 23, 1955, ch. 43, title V, § 503, 69 Stat. 63.
June 29, 1954, ch. 409, title V, § 503, 68 Stat. 318.
July 28, 1953, ch. 251, title IV, § 403, 67 Stat. 224.
July 5, 1952, ch. 574, title IV, § 403, 66 Stat. 355.
Aug. 31, 1951, ch. 374, title IV, § 403, 65 Stat. 246.
Sept. 6, 1950, ch. 896, ch. VI, title IV, § 407, 64 Stat. 657.
June 29, 1949, ch. 280, title I, § 101, 63 Stat. 325.
June 19, 1948, ch. 543, title I, § 101, 62 Stat. 508.
July 30, 1947, ch. 356, title I, § 1, 61 Stat. 523.
June 22, 1946, ch. 445, § 1, 60 Stat. 271.
May 5, 1945, ch. 109, § 1, 59 Stat. 136.
June 28, 1944, ch. 296, § 1, 58 Stat. 426.
July 12, 1943, ch. 215, § 1, 57 Stat. 393.
July 22, 1942, ch. 516, § 1, 56 Stat. 665.
July 1, 1941, ch. 267, § 1, 55 Stat. 408.
June 25, 1940, ch. 421, § 1, 54 Stat. 532.

§ 428a. Acquisition of land; options

(a) The Department of Agriculture is authorized to acquire land, or interest therein, by purchase, exchange or otherwise, as may be necessary to carry out its authorized work: *Provided,* That no acquisition shall be made under this authority unless provision is made therefor in the applicable appropriation or other law.

(b) Appropriations for the Department of Agriculture which are available for the purchase of land may be expended for options to purchase land: *Provided,* That not to exceed $1 may be expended for each option to purchase any particular tract or tracts of land unless otherwise provided in appropriation or other law.

(Aug. 3, 1956, ch. 950, § 11, 70 Stat. 1034.)

CROSS REFERENCES

Adjustment of title to lands under jurisdiction of Secretary of Agriculture, see section 2253 of this title.

§ 428b. Wheat and feed grains research; regional and national research programs; utilization of services of Federal, State and private agencies; authorization of appropriations

In order to reduce fertilizer and herbicide usage in excess of production needs, to develop wheat and feed grain varieties more susceptible to complete fertilizer utilization, and to improve the resistance of wheat and feed grain plants to disease and to enhance their conservation and environmental qualities, the Secretary of Agriculture is authorized and directed to carry out regional and national research programs.

In carrying out such research, the Secretary shall utilize the technical and related services of the appropriate Federal, State, and private agencies.

There is authorized to be appropriated such sums as may be necessary to carry out the provisions of this section, but not more than $1,000,000 in any fiscal year.

(Pub. L. 91-524, title VIII, § 810, as added Pub. L. 93-86, § 1(27)(B), Aug. 10, 1973, 87 Stat. 238.)

§ 428c. Rice research

(a) Regional and national research programs; rules; purposes

The Secretary of Agriculture may, under rules prescribed by such Secretary, carry out regional and national research programs with regard to rice for the following purposes:

(1) to reduce fertilizer and herbicide usage in excess of production needs;

(2) to develop varieties of rice more susceptible to complete fertilizer utilization;

(3) to improve the resistance of rice plants to disease and to enhance their conservation and environmental qualities;

(4) to increase the usage of rice and its processing byproducts;

(5) to develop better husbandry practices in production and conservation of rice;

(6) to develop more efficient rice storage practices;

(7) to improve domestic and international marketing of rice; and

(8) to benefit the general welfare.

(b) Utilization of services of Federal, State, local governmental and private agencies; priority consideration

The Secretary shall, in implementing the program authorized in subsection (a) of this section, utilize the technical and related services of appropriate Federal, State, local governmental, and private agencies, with priority consideration for land grant universities, State experiment stations, and other agricultural institutions of higher learning.

(c) Authorization of appropriations; use restriction

There is authorized to be appropriated not more than $1,000,000 for the period ending September 30, 1976, to carry out the provisions of this section. No funds authorized by this section shall be used for advertising or promotional activities.

(Pub. L. 94-214, title II, § 201, Feb. 16, 1976, 90 Stat. 187.)

SHORT TITLE

Section 1 of Pub. L. 94-214 provided that: "This Act [which enacted this section and sections 1441(g) and 1428(m) of this title, amended sections 1352, 1385 and 1428(b) of this title, and enacted provisions set out as notes under sections 1352, 1353, 1377, 1385, 1441 and 1428 of this title] may be cited as the 'Rice Production Act of 1975'."

§ 429. Improvement of poultry, poultry products, and hatcheries

The Secretary of Agriculture is authorized to cooperate with State authorities and with the authorities of the District of Columbia, Alaska, Hawaii, and Puerto Rico in the administration of regulations for the improvement of poultry, poultry products, and hatcheries.

(Sept. 21, 1944, ch. 412, title I, § 101(b), 58 Stat. 734; Aug. 4, 1950, ch. 579, 64 Stat. 413.)

AMENDMENTS

1950—Act Aug. 4, 1950, included within its provisions the District of Columbia, Alaska, Hawaii, and Puerto Rico.

ADMISSION OF ALASKA AND HAWAII TO STATEHOOD

Alaska was admitted into the Union on Jan. 3, 1959, upon the issuance of Proc. No. 3269, Jan. 3, 1959, 24 F.R. 81, 73 Stat. c16, and Hawaii was admitted into the Union on Aug. 21, 1959, upon the issuance of Proc. No. 3309, Aug. 21, 1959, 24 F.R. 6868, 73 Stat. c74. For Alaska Statehood Law, see Pub. L. 85-508, July 7, 1958, 72 Stat. 339, set out as a note preceding section 21 of Title 48, Territories and Insular Possessions. For Hawaii Statehood Law, see Pub. L. 86-3, Mar. 18, 1959, 73 Stat. 4, set out as a note preceding section 491 of Title 48.

APPROPRIATIONS

Appropriations of funds necessary to accomplish the purpose of this section, see note under section 395 of this title.

§ 430. Purchase and testing of serums or analogous products; dissemination of test results

The Secretary of Agriculture may purchase in the open market from applicable appropriations samples of all tuberculin, serums, antitoxins, or analogous products, of foreign or domestic manufacture, which are sold in the United States, for the detection, prevention, treatment, or cure of diseases of domestic animals, test the same, and disseminate the results of said tests in such manner as he may deem best.

(Sept. 21, 1944, ch. 412, title I, § 101(d), 58 Stat. 734.)

APPROPRIATIONS

Appropriations of funds necessary to accomplish the purpose of this section, see note under section 395 of this title.

§ 431. Purchase of tags, labels, stamps, and certificates

The Secretary of Agriculture is authorized to expend appropriations for meat inspection for the purchase of printed tags, labels, stamps, and certificates without regard to existing laws applicable to public printing.

(Sept. 21, 1944, ch. 412, title I, § 101(f), 58 Stat. 734.)

APPROPRIATIONS

Appropriations of funds necessary to accomplish the purpose of this section, see note under section 395 of this title.

§ 432. Purchase of cultures for soil and fertilizer investigations

The Secretary of Agriculture may purchase from applicable appropriations cultures in the open market for use in connection with soil and fertilizer investigations.

(Sept. 21, 1944, ch. 412, title I, § 104, 58 Stat. 735.)

§ 433. Domestic raising of fur-bearing animals; classification

For the purposes of all classification and administration of Acts of Congress, Executive orders, administrative orders, and regulations pertaining to—

(a) fox, rabbit, mink, chinchilla, marten, fisher, muskrat, karakul and all other fur-bearing animals, raised in captivity for breeding or other useful purposes shall be deemed domestic animals;

(b) such animals and the products thereof shall be deemed agricultural products; and

(c) the breeding, raising, producing, or marketing of such animals or their products by the producer shall be deemed an agricultural pursuit.

(Apr. 30, 1946, ch. 242, § 1, 60 Stat. 127.)

EFFECTIVE DATE

Section 3 of act Apr. 30, 1946, provided that this section and section 434 of this title shall become effective sixty days after Apr. 30, 1946.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 434 of this title.

§ 434. Transfer of functions, appropriations, records and property to Secretary of Agriculture

(a) All the functions of the Secretary of the Interior and the Fish and Wildlife Service of the Department of the Interior, which affect the breeding, raising, producing, marketing, or any other phase of the production or distribution, of domestically raised fur-bearing animals, or products thereof, are transferred to and vested in the Secretary of Agriculture.

(b) Appropriations and unexpended balances of appropriations, or parts thereof, which the Director of the Office of Management and Budget determines to be available for expenditure for the administration of any function transferred by this section and section 433 of this title, shall be available for expenditure for the continued administration of such function by the officer to whom such function is so transferred.

(c) All records and property (including office furniture and equipment) under the jurisdiction of the Secretary of the Interior and the Fish and Wildlife Service of the Department of the Interior used primarily in connection with the administration of functions transferred by said sections are transferred to the jurisdiction of the Secretary of Agriculture.

(Apr. 30, 1946, c. 242, § 2, 60 Stat. 127; 1970 Reorg. Plan No. 2, § 102, eff. July 1, 1970, 35 F.R. 7959, 84 Stat. 2085.)

EFFECTIVE DATE

Section as effective 60 days after Apr. 30, 1946, see note set out under section 433 of this title.

TRANSFER OF FUNCTIONS

All functions vested by law (including reorganization plan) in the Bureau of the Budget or the Director of the Bureau of the Budget were transferred to the President of the United States by section 101 of 1970 Reorg. Plan No. 2. Section 102 of 1970 Reorg. Plan No. 2 redesignated the Bureau of the Budget as the Office of Management and Budget and the offices of Director of the Bureau of the Budget, Deputy Director of the Bureau of the Budget, and Assistant Directors of the Bureau of the Budget as Director of the Office of Management and Budget, Deputy Director of the Office of Management and Budget, and Assistant Directors of the Office of Management and Budget, re-

spectively. Section 103 of 1970 Reorg. Plan No. 2 transferred all records, property, personnel, and funds of the Bureau to the Office of Management and Budget. See part I of Reorg. Plan No. 2 of 1970, set out in the Appendix to Title 5, Government Organization and Employees.

§ 435. Omitted

CODIFICATION

Section, which made inapplicable provisions of law prohibiting or restricting employment of aliens to employment under the appropriations for the Foreign Agricultural Service, was from the Department of Agriculture Appropriation Act, 1974, Pub. L. 93-135. Similar provisions were contained in prior appropriation acts. Section was not repeated in the Department of Agriculture Appropriation Act, 1975, accordingly, section is omitted from this Code. For present provisions covering employment of aliens generally, see section 699b of Title 31, Money and Finance.

Section was based on acts July 30, 1947, ch. 356, title I, § 4, 61 Stat. 548; June 19, 1948, ch. 543, title I, § 4, 62 Stat. 530; June 2, 1949, ch. 280, title III, § 302, 63 Stat. 348; Sept. 6, 1950, ch. 896, ch. VI, title IV, § 402, 64 Stat. 679; Aug. 31, 1951, ch. 374, title IV, § 402, 65 Stat. 245; July 5, 1952, ch. 574, title IV, § 402, 66 Stat. 355; July 28, 1953, ch. 251, title IV § 402, 67 Stat. 224; June 29, 1954, ch. 409, title V, § 502, 68 Stat. 318; May 23, 1955, ch. 43, title V, § 502, 69 Stat. 63; June 4, 1956, ch. 355, title V, § 502, 70 Stat. 240; Aug. 2, 1957, Pub. L. 85-118, title V, § 502, 71 Stat. 340; June 13, 1958, Pub. L. 85-459, title IV, § 402, 72 Stat. 199; July 8, 1959, Pub. L. 86-80, title IV, § 402, 73 Stat. 179; June 29, 1960, Pub. L. 86-532, title IV, § 402, 74 Stat. 244; July 26, 1961, Pub. L. 87-112, title V, § 502, 75 Stat. 240; Oct. 24, 1962, Pub. L. 87-879, title VI, § 602, 76 Stat. 1215; Dec. 30, 1963, Pub. L. 88-250, title VI, § 602, 77 Stat. 833; Sept. 2, 1964, Pub. L. 88-573, title V, § 502, 78 Stat. 876; Nov. 2, 1965, Pub. L. 89-316, title V, § 502, 79 Stat. 1179; Sept. 7, 1966, Pub. L. 89-556, title V, § 502, 80 Stat. 703; Oct. 24, 1967, Pub. L. 90-113, title V, § 502, 81 Stat. 334; Aug. 8, 1968, Pub. L. 90-463, title V, § 502, 82 Stat. 653; Nov. 26, 1969, Pub. L. 91-127, title V, § 502, 83 Stat. 260; Dec. 22, 1970, Pub. L. 91-566, title V, § 502, 84 Stat. 1496; Aug. 10, 1971, Pub. L. 92-73, title V, § 502, 85 Stat. 201; Aug. 22, 1972, Pub. L. 92-399, title V, § 502, 86 Stat. 611; Oct. 24, 1973, Pub. L. 93-135, title V, § 502, 87 Stat. 489.

§ 436. Transfer of Army Remount Service to Department of Agriculture; effective date

In the interests of economy and efficiency, the records, property, real and personal, and civilian personnel of the Remount Service of the Quartermaster Corps, Department of the Army, are transferred to the Department of Agriculture, effective July 1, 1948. Prior to that date, the Secretary of the Army and the Secretary of Agriculture shall enter into a written agreement on the property and the personnel covered by this transfer.

(Apr. 21, 1948, ch. 224, § 1, 62 Stat. 197.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 437 of this title.

§ 437. Administration of transferred property; improvement in horse breeding; acquisition of breeding stock and facilities; fees; cooperation with other organizations

The Secretary of Agriculture is authorized to receive the property transferred by section 436 of this title and is directed to administer it in such manner as he deems will best advance the livestock and agricultural interests of the United States, including improvement in the breeding of horses suited to the needs of the United States; the acquisition by purchase in the open market, exchange, hire, or donation of breeding stock, and necessary land, buildings, and facilities; the use of horses in the improvement of the supply of horses available in agriculture; the demonstration of the quality and usefulness of horses through participation in and lending for use in fairs, shows, and other events, or otherwise; the loan, sale, or hire of animals or animal products through such arrangements and subject to such fees as are deemed necessary by the Secretary to accomplish the purposes of this section and section 436 of this title, and, in carrying out such program, the Secretary is authorized to cooperate with public and private organizations and individuals under such rules and regulations as are deemed by him to be necessary.

(Apr. 21, 1948, ch. 224, § 2, 62 Stat. 197.)

AUTHORIZATION OF APPROPRIATIONS; ABOLITION OF ARMY REMOUNT PROGRAM

Section 4 of act Apr. 21, 1948, provided: "There is hereby authorized to be appropriated to the Department of Agriculture such funds as may be necessary to carry out this Act [sections 436 to 438 of this title]. The authority of the Department of the Army to conduct a remount breeding program is hereby abolished. Funds appropriated pursuant to this Act [said sections] shall be available for necessary administrative expenses, including personal services in the District of Columbia, printing and binding, and purchase or hire of passenger motor vehicles."

§ 438. Repealed. Pub. L. 88-448, title IV, § 402(a)(26), Aug. 19, 1964, 78 Stat. 494

Section, act Apr. 21, 1948, ch. 224, § 3, 62 Stat. 197, related to the employment of retired Army officers in the Remount Service.

EFFECTIVE DATE OF REPEAL

Section repealed effective on the first day of the first month which begins later than the ninetieth day following Aug. 19, 1964, see section 403 of Pub. L. 88-448.

§ 439. Operation of Government-owned alcohol plants; location; transfer of plants

For the purpose of assuring their operation for the production of products from agricultural commodities in order to provide a means of discharging the responsibility of the Department of Agriculture in connection with surplus agricultural commodities, research, and other authorized activities, and to assist in providing an adequate supply of alcohol and other products produced from agricultural commodities necessary for the national defense, (1) the Reconstruction Finance Corporation, as successor to Defense Plant Corporation, shall transfer, without regard to the provisions of the Surplus Property Act of 1944 and without reimbursement or transfer of funds, to the Secretary of Agriculture all of its right, title, and interest in and to the alcohol plant established and constructed by Defense Plant Corporation at Muscatine, Iowa, the property, together with the equipment, records, facilities, and other property appurtenant thereto; and (2) the War Assets Administration shall transfer to the Secretary of Agriculture without regard to the provisions of the Surplus Property Act of 1944 and with-

out reimbursement or transfer of funds the alcohol plants at Kansas City, Missouri, and Omaha, Nebraska, together with the land, equipment, facilities, and other property appurtenant thereto.

(July 2, 1948, ch. 818, § 1, 62 Stat. 1234.)

REFERENCES IN TEXT

The Surplus Property Act of 1944 [Act Oct. 3, 1944, ch. 479, 58 Stat. 765], referred to in the text, formerly set out as sections 1611 to 1646 of Appendix to Title 50, War and National Defense, was repealed, with the exception of section 1622, by act June 30, 1949, ch. 288, title VI, § 602(a)(1), 63 Stat. 399, as renumbered Sept. 5, 1950, ch. 849, § 6(a), (b), 64 Stat. 583, and is now covered by chapter 10 (§ 471 et seq.) of Title 40, Public Buildings, Property, and Works.

TRANSFER OF FUNCTIONS

All functions of all officers, agencies and employees of the Department of Agriculture were transferred, with certain exceptions, to the Secretary of Agriculture by 1953 Reorg. Plan No. 2, § 1, eff. June 4, 1953, 18 F.R. 3219, 67 Stat. 633, set out as a note under section 2201 of this title.

The functions, property, records, etc., of the War Assets Administration were transferred to the Administrator of General Services and the War Assets Administration was abolished by act June 30, 1949, ch. 288, title I, § 105, 63 Stat. 381.

ABOLITION OF RECONSTRUCTION FINANCE CORPORATION

Section 6(a) of 1957 Reorg. Plan No. 1, eff. June 30, 1957, 22 F.R. 4633, 71 Stat. 647, set out in the Appendix to Title 5, Government Organization and Employees.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 439a, 439b, 439c, 439e of this title.

§ 439a. Powers and duties of Secretary of Agriculture

In carrying out the purposes of sections 439 to 439e of this title the Secretary is authorized, upon such terms and conditions as he deems reasonable, and notwithstanding the provisions of any other law—

(a) to provide for the operation of such plants by lease or other arrangement;

(b) to operate such plants, where operation by others will not, in the judgment of the Secretary, accomplish the purpose of sections 439 to 439e of this title.

Such plants may be operated in the furtherance of any authorized activities of the Department of Agriculture, and any lease, or other arrangement may be upon such terms and conditions as to result in the plant being operated for such purposes.

(July 2, 1948, ch. 818, § 2, 62 Stat. 1234.)

TRANSFER OF FUNCTIONS

All functions of all officers, agencies and employees of the Department of Agriculture were transferred, with certain exceptions, to the Secretary of Agriculture by 1953 Reorg. Plan No. 2, § 1, eff. June 4, 1953, 18 F.R. 3219, 67 Stat. 633, set out as a note under section 2201 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 439b, 439c, 439e of this title.

§ 439b. Recommendations to Congress for discontinuance of plants

Whenever the Secretary finds that the operation of any plant or plants as provided in sections 439 to 439e of this title is no longer necessary or desirable, he shall report such fact to Congress with his recommendations for the disposition thereof.

(July 2, 1948, ch. 818, § 3, 62 Stat. 1235.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 439a, 439c, 439e of this title.

§ 439c. Construction of additional facilities; acquisition of property; incurment of expenses; rules and regulations

For the purposes of sections 439 to 439e of this title, the Secretary of Agriculture is authorized (a) to construct and provide additional facilities and equipment necessary to the operation of such plants, and to maintain, repair, and alter such plants; (b) to acquire property or rights or interest therein by purchase, lease, gift, transfer, condemnation, or otherwise; (c) to incur necessary administrative expenses, including personal services; and (d) to make such rules and regulations as may be necessary to carry out the purposes of said sections.

(July 2, 1948, ch. 818, § 4, 62 Stat. 1235.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 439a, 439b, 439e of this title.

§ 439d. Assumption of obligations of Reconstruction Finance Corporation covering Muscatine, Iowa, plant

The Secretary of Agriculture shall assume all obligations of the Reconstruction Finance Corporation covering operations of the Muscatine, Iowa, plant, equipment, facilities, and appurtenant property outstanding at the date of transfer.

(July 2, 1948, ch. 818, § 5, 62 Stat. 1235.)

ABOLITION OF RECONSTRUCTION FINANCE CORPORATION

Section 6(a) of 1957 Reorg. Plan No. 1, eff. June 30, 1957, 22 F.R. 4633, 71 Stat. 647, set out in the Appendix to Title 5, Government Organization and Employees, abolished the Reconstruction Finance Corporation.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 439a, 439b, 439c, 439e of this title.

§ 439e. Authorization of appropriations; availability of other appropriations

There are authorized to be appropriated for the purposes of sections 439 to 439e of this title such sums as the Congress may from time to time determine to be necessary. Also, the Secretary is authorized to use such sums from other appropriations or funds available to the bureaus, corporations, or agencies of the Department of Agriculture as he may deem necessary for expenses in connection with maintaining these plants in standby condition while not under lease.

(July 2, 1948, ch. 818, § 6, 62 Stat. 1235.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 439a, 439b, 439c, 439d of this title.

§ 440. Reimbursement of appropriations available for classing or grading agriculture commodities without charge

On and after June 29, 1949, appropriations available for classing or grading any agricultural commodity without charge to the producers thereof may be reimbursed from nonadministrative funds of the Commodity Credit Corporation for the cost of classing or grading any such commodity for producers who obtain Commodity Credit Corporation price support.

(June 29, 1949, ch. 280, title I, § 101, 63 Stat. 344.)

EXCEPTIONS FROM TRANSFER OF FUNCTIONS

Functions of the Corporations of the Department of Agriculture, the boards of directors and officers of such corporations; the Advisory Board of the Commodity Credit Corporation; and the Farm Credit Administration or any agency, officer or entity of, under, or subject to the supervision of the said Administration were excepted from the functions of officers, agencies and employees transferred to the Secretary of Agriculture by 1953 Reorg. Plan No. 2, § 1, eff. June 4, 1953, 18 F.R. 3219, 67 Stat. 633, set out as a note under section 2201 of this title.

§ 441. Repealed. Pub. L. 85–36, title I, § 111, May 23, 1957, 71 Stat. 35

Section, act Sept. 22, 1951, ch. 409, 65 Stat. 335, related to prevention of entry of mollusks, and is now covered by chapter 7B of this title.

CONTINUATION OF PROVISIONS

Sections amended or repealed by Pub. L. 85-36 to continue in force as to rights, liabilities and violations that occurred before May 23, 1957, and findings, regulations, orders, permits and certificates issued before May 23, 1957 as remaining in effect until modified, see note set out under section 147a of this title.

§ 442. Availability of grain to prevent waterfowl depredations; payment of packaging, transporting, handling, and other charges

For the purpose of preventing crop damage by migratory waterfowl, the Commodity Credit Corporation shall make available to the Secretary of the Interior such wheat, corn, or other grains, acquired through price support operations and certified by the Commodity Credit Corporation to be available for purposes of sections 442 to 445 of this title or in such condition through spoilage or deterioration as not to be desirable for human consumption, as the Secretary of the Interior shall requisition pursuant to section 443 of this title. With respect to any grain thus made available, the Commodity Credit Corporation may pay packaging, transporting, handling, and other charges up to the time of delivery to one or more designated locations in each State.

(July 3, 1956, ch. 512, § 1, 70 Stat. 492.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 444, 445 of this title.

§ 443. Requisition of grain to prevent crop depredation by migratory waterfowl

Upon a finding by the Secretary of the Interior that any area in the United States is threatened with damage to farmers' crops by migratory waterfowl, whether or not during the open season for such migratory waterfowl, the Secretary of the Interior is authorized and directed to requisition from the Commodity Credit Corporation and to make available to Federal, State, or local governmental bodies or officials, or to private organizations or persons, such grain acquired by the Commodity Credit Corporation through price-support operations in such quantities and subject to such regulations as the Secretary determines will most effectively lure migratory waterfowl away from crop depredations and at the same time not expose such migratory waterfowl to shooting over areas to which the waterfowl have been lured by such feeding programs.

(July 3, 1956, ch. 512, § 2, 70 Stat. 492.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 442, 444, 445 of this title.

§ 444. Reimbursement of packaging and transporting expenses

With respect to all grain made available pursuant to section 443 of this title, the Commodity Credit Corporation shall be reimbursed by the Secretary of the Interior for its expenses in packaging and transporting such grain for purposes of sections 442 to 445 of this title.

(July 3, 1956, ch. 512, § 3, 70 Stat. 492.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 442, 445 of this title.

§ 445. Authorization of appropriations for mitigating losses caused by waterfowl depredation

There are authorized to be appropriated such sums as may be necessary to reimburse the Commodity Credit Corporation for its investment in the grain transferred pursuant to sections 442 to 445 of this title.

(July 3, 1956, ch. 512, § 4, 70 Stat. 492.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 442, 444 of this title.

§ 446. Repealed. Pub. L. 86–133, Aug. 4, 1959, 73 Stat. 279

Section, act July 3, 1956, ch. 512, § 5, 70 Stat. 492, prescribed three years following July 3, 1956, as the expiration date for the availability of grain under sections 442 to 446 of this title.

§ 447. Requisition of surplus grain; prevention of starvation of resident game birds and other resident wildlife; utilization by State agencies; reimbursement for packaging and transporting

For the purpose of meeting emergency situations caused by adverse weather conditions or other factors destructive of important wildlife resources, the States are authorized, upon the request of the State fish and game authority or other State agency having similar authority

and a finding by the Secretary of the Interior that any area of the United States is threatened with serious damage or loss to resident game birds and other resident wildlife from starvation, to requisition from the Commodity Credit Corporation grain acquired by the Corporation through price support operations. Such grain may thereafter be furnished to the particular State for direct and sole utilization by the appropriate State agencies for purposes of sections 447 to 449 of this title in such quantities as mutually agreed upon by the State and the Commodity Credit Corporation and subject to such regulations as may be considered desirable by the Corporation. The Corporation shall be reimbursed by the particular State in each instance for the expense of the Corporation in packaging and transporting such grain for purposes of sections 447 to 449 of this title.

(Pub. L. 87-152, § 1, Aug. 17, 1961, 75 Stat. 389.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 448, 449 of this title.

§ 448. Requisition and use of grain for prevention of starvation of migratory birds; reimbursement for packaging and transporting

Upon a finding by the Secretary of the Interior that migratory birds are threatened with starvation in any area of the United States, the Secretary is authorized to requisition from the Commodity Credit Corporation grain acquired by that Corporation through price support operations in such quantities as may be mutually agreed upon. The Corporation shall be reimbursed by the Secretary for its expense in packaging and transporting of such grain for purposes of sections 447 to 449 of this title.

(Pub. L. 87-152, § 2, Aug. 17, 1961, 75 Stat. 389.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 447, 449 of this title.

§ 449. Authorization of appropriations for reimbursement of Commodity Credit Corporation

There are authorized to be appropriated such sums as may be necessary to reimburse the Commodity Credit Corporation for its investment in grain transferred pursuant to sections 447 to 449 of this title.

(Pub. L. 87-152, § 3, Aug. 17, 1961, 75 Stat. 389.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 447, 448 of this title.

§ 450. Cooperation with State agencies in administration and enforcement of laws relating to marketing of agricultural products and control or eradication of plant and animal diseases and pests; coordination of administration of Federal and State laws

In order to avoid duplication of functions, facilities, and personnel, and to attain closer coordination and greater effectiveness and economy in administration of Federal and State laws and regulations relating to the marketing of agricultural products and to the control or eradication of plant and animal diseases and pests, the Secretary of Agriculture is authorized, in the administration and enforcement of such Federal laws within his area of responsibility, whenever he deems it feasible and in the public interest, to enter into cooperative arrangements with State departments of agriculture and other State agencies charged with the administration and enforcement of such State laws and regulations and to provide that any such State agency which has adequate facilities, personnel, and procedures, as determined by the Secretary, may assist the Secretary in the administration and enforcement of such Federal laws and regulations to the extent and in the manner he deems appropriate in the public interest.

Further, the Secretary is authorized to coordinate the administration of such Federal laws and regulations with such State laws and regulations wherever feasible. However, nothing herein shall affect the jurisdiction of the Secretary of Agriculture under any Federal law, or any authority to cooperate with State agencies or other agencies or persons under existing provisions of law, or affect any restrictions of law upon such cooperation.

(Pub. L. 87-718, Sept. 28, 1962, 76 Stat. 663.)

§ 450a. Cooperative research projects; agreements with and receipt of funds from State and other agencies

On and after December 30, 1963, the Administrator of the Agricultural Research Service may enter into agreements with and received funds from any State, other political subdivision, organization, or individual for the purpose of conducting cooperative research projects with such cooperators.

(Pub. L. 88-250, title I, § 101, Dec. 30, 1963, 77 Stat. 820.)

§ 450b. Cooperation with State and other agencies; expenditures

In carrying on the activities of the Department of Agriculture involving cooperation with State, county, and municipal agencies, associations of farmers, individual farmers, universities, colleges, boards of trade, chambers of commerce, or other local associations of business men, business organizations, and individuals within the State, Territory, district, or insular possession in which such activities are to be carried on, moneys contributed from such outside sources, except in the case of the authorized activities of the Forest Service, shall be paid only through the Secretary of Agriculture or through State, county, or municipal agencies, or local farm bureaus or like organizations, cooperating for the purpose with the Secretary of Agriculture.

(July 24, 1919, ch. 26, 41 Stat. 270.)

CODIFICATION

Section was formerly classified to section 563 of Title 5 prior to the general revision and enactment of Title 5, Government Organization and Employees, by Pub. L. 89-554, § 1, Sept. 6, 1966, 80 Stat. 378.

A prior section 450b, Pub. L. 89-106, § 2, Aug. 4, 1965, 79 Stat. 431, which related to research grants, duration, records, and audit, has been transferred to section 450i of this title.

CROSS REFERENCES

Application to cooperative work by Fish and Wildlife Service, see section 753 of Title 16, Conservation.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2220 of this title; title 16 section 743.

§ 450c. Delegation of regulatory functions of Secretary of Agriculture; definitions

As used in sections 450c to 450g of this title—

(a) The term "regulatory order" means an order, marketing agreement, standard, permit, license, registration, suspension or revocation of a permit, license, or registration, certificate, award, rule or regulation, if it has the force and effect of law, and if it may be made, prescribed, issued, or promulgated only after notice and hearing or opportunity for hearing have been given.

(b) The term "regulatory function" means the making, prescribing, issuing, or promulgating of a regulatory order; and includes (1) determining whether such making, prescribing, issuing, or promulgating is authorized or required by law, and (2) any action which is required or authorized to be performed before, after, or in connection with, such determining, making, prescribing, issuing, or promulgating.

(Apr. 4, 1940, ch. 75, § 1, 54 Stat. 81.)

CODIFICATION

Section was formerly classified to section 516a of Title 5 prior to the general revision and enactment of Title 5, Government Organization and Employees, by Pub. L. 89-554, § 1, Sept. 6, 1966, 80 Stat. 378.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 450g of this title.

§ 450d. Delegation of regulatory functions to designated employees; status of employees; number; revocation of delegation

Whenever the Secretary of Agriculture deems that the delegation of the whole or any part of any regulatory function which the Secretary is, now or after April 4, 1940, required or authorized to perform will result in the more expeditious discharge of the duties of the Department of Agriculture, he is authorized to make such delegation to any officer or employee designated under this section. The Secretary is authorized to designate officers or employees of the Department to whom functions may be delegated under this section and to assign appropriate titles to such officers or employees. There shall not be in the Department at any one time more than two officers or employees designated under this section and vested with a regulatory function or part thereof delegated under this section. The Secretary may at any time revoke the whole or any part of a delegation or designation made by him under this section.

(Apr. 4, 1940, ch. 75, § 2, 54 Stat. 81.)

CODIFICATION

Section was formerly classified to section 516b of Title 5 prior to the general revision and enactment of Title 5, Government Organization and Employees, by Pub. L. 89-554, § 1, Sept. 6, 1966, 80 Stat. 378.

REPEALS

The third sentence of act Apr. 4, 1940, which related to the grade of a position, was repealed by Pub. L. 89-554, § 8(a), Sept. 6, 1966, 80 Stat. 650, and is now covered by section 5109 of Title 5, Government Organization and Employees.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 450c, 450e, 450f, 450g of this title; title 5 section 5109.

§ 450e. Authority of designated employees; retroactive revocation of delegation

Whenever a delegation is made under section 450d of this title, all provisions of law shall be construed as if the regulatory function or the part thereof delegated had (to the extent of the delegation) been vested by law in the individual to whom the delegation is made, instead of in the Secretary of Agriculture. A revocation of delegation shall not be retroactive, and each regulatory function or part thereof performed (within the scope of the delegation) by such individual prior to the revocation shall be considered as having been performed by the Secretary.

(Apr. 4, 1960, ch. 75, § 3, 54 Stat. 82.)

CODIFICATION

Section was formerly classified to section 516c of Title 5 prior to the general revision and enactment of Title 5, Government Organization and Employees, by Pub. L. 89-554, § 1, Sept. 6, 1966, 80 Stat. 378.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 450c, 450g of this title.

§ 450f. Delegation of functions under other laws as unaffected

The provisions of section 450d of this title shall not be deemed to prohibit the delegation, under authority of any other provision of law, of the whole or any part of any regulatory function or other function to any officer or employee of the Department of Agriculture.

(Apr. 4, 1940, ch. 75, § 4, 54 Stat. 82.)

CODIFICATION

Section was formerly classified to section 516d of Title 5 prior to the general revision and enactment of Title 5, Government Organization and Employees, by Pub. L. 89-554, § 1, Sept. 6, 1966, 80 Stat. 378.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 450c, 450g of this title.

§ 450g. Authorization of appropriations for cooperative research projects

There is authorized to be appropriated such sums as may be necessary to carry out the purposes of sections 450c to 450g of this title.

(Apr. 4, 1940, ch. 75, § 5, 54 Stat. 82.)

CODIFICATION

Section was formerly classified to section 516e of Title 5 prior to the general revision and enactment of Title 5, Government Organization and Employees, by Pub. L. 89-554, § 1, Sept. 6, 1966, 80 Stat. 378.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 450c of this title.

§ 450h. Transferred

CODIFICATION

Section, acts July 24, 1919, ch. 26, 41 Stat. 270; Sept. 3, 1954, ch. 1263, § 5, 68 Stat. 1227, was transferred to section 2220 of this title.

Section was formerly classified to sections 67 and 564 of Title 5 prior to the general revision and enactment of Title 5, Government Organization and Employees, by Pub. L. 89-554, § 1, Sept. 6, 1966, 80 Stat. 378.

§ 450i. Research grants; duration; records; audit

The Secretary of Agriculture is authorized to make grants, for periods not to exceed five years' duration, to State agricultural experiment stations, colleges, universities, and other research institutions and organizations and to Federal and private organizations and individuals for research to further the programs of the Department of Agriculture. Each recipient of assistance under this section shall keep such records as the Secretary shall prescribe, including records which fully disclose the amount and disposition by such recipient of the proceeds of such grants, the total cost of the project or undertaking in connection with which such funds are given or used, and the amount of that portion of the costs of the project or undertaking supplied by other sources, and such other records as will facilitate an effective audit. The Secretary of Agriculture and the Comptroller General of the United States or any of their duly authorized representatives shall have access for the purpose of audit and examination to any books, documents, papers, and records of the recipients that are pertinent to the grants received under this section.

(Pub. L. 89-106, § 2, Aug. 4, 1965, 79 Stat. 431.)

§ 450j. Indemnity payments to dairy farmers and manufacturers of dairy products; milk removed for its chemical residue content

The Secretary of Agriculture is authorized to make indemnity payments for milk or cows producing such milk at a fair market value, to dairy farmers who have been directed since January 1, 1964 (but only since August 10, 1973, in the case of indemnity payments not authorized prior to August 10, 1973), to remove their milk, and to make indemnity payments for dairy products at fair market value to manufacturers of dairy products who have been directed since November 30, 1970, to remove their dairy products from commercial markets because of residues of chemicals registered and approved for use by the Federal Government at the time of such use. Any indemnity payment to any farmer shall continue until he has been reinstated and is again allowed to dispose of his milk on commercial markets.

(Pub. L. 90-484, § 1, Aug. 13, 1968, 82 Stat. 750; Pub. L. 91-524, title II, § 204(b), Nov. 30, 1970, 84 Stat. 1362; Pub. L. 93-86, § 1(5)(B), Aug. 10, 1973, 87 Stat. 223.)

AMENDMENTS

1973—Pub. L. 93-86 inserted "for milk or cows producing such milk" following "The Secretary of Agriculture is authorized to make indemnity payments" and "(but only since August 10, 1973, in the case of indemnity payments not authorized prior to August 10, 1973)" following "January 1, 1964" and substituted ", and to make indemnity payments for dairy products at fair market value to" for "and" following "remove their milk" and "of" for "it contained" preceding "residues of chemicals".

1970—Pub. L. 91-524 inserted "and manufacturers of dairy products who have been directed since November 30, 1970, to remove their dairy products," after "milk", in the first sentence, and substituted "Any indemnity payment to any farmer shall continue" for "Such indemnity payments shall continue to each dairy farmer" in the second sentence.

PRIOR PROVISIONS

The following Acts authorized indemnity payments for the periods ending as indicated:

June 30, 1968—Pub. L. 90-95, Sept. 28, 1967, 81 Stat. 231.

June 30, 1967—Pub. L. 89-794, title III, § 301(c), Nov. 8, 1966, 80 Stat. 1465.

June 30, 1966—Pub. L. 89-253, § 24, Oct. 29, 1965, 79 Stat. 977.

June 30, 1965—Pub. L. 89-16, title III, § 303, Apr. 30, 1965, 79 Stat. 108.

Jan. 31, 1965—Pub. L. 88-452, title III, § 331, Aug. 20, 1964, 78 Stat. 525.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 450k, 450*l* of this title.

§ 450k. Authorization of appropriations for dairy farmer indemnities

There is hereby authorized to be appropriated such sums as may be necessary to carry out the purposes of sections 450j to 450*l* of this title.

(Pub. L. 90-484, § 2, Aug. 13, 1968, 82 Stat. 750.)

PRIOR PROVISIONS

The following Acts authorized indemnity payments for the periods ending as indicated:

June 30, 1968—Pub. L. 90-95, Sept. 28, 1967, 81 Stat. 231.

June 30, 1967—Pub. L. 89-794, title III, § 301(c), Nov. 8, 1966, 80 Stat. 1465.

June 30, 1966—Pub. L. 89-253, § 24, Oct. 29, 1965, 79 Stat. 977.

June 30, 1965—Pub. L. 89-16, title III, § 303, Apr. 30, 1965, 79 Stat. 108.

Jan. 31, 1965—Pub. L. 88-452, title III, § 331, Aug. 20, 1964, 78 Stat. 525.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 450*l* of this title.

§ 450*l*. Expiration of dairy farmer indemnity program

The authority granted under sections 450j to 450*l* of this title shall expire on June 30, 1977.

(Pub. L. 90-484, § 3, Aug. 13, 1968, 82 Stat. 750; Pub. L. 91-524, title II, § 204(a), Nov. 30, 1970, 84 Stat. 1361; Pub. L. 93-86, § 1(5)(A), Aug. 10, 1973, 87 Stat. 223.)

AMENDMENTS

1973—Pub. L. 93-86 substituted "June 30, 1977" for "June 30, 1973".

1970—Pub. L. 91-524 substituted "June 30, 1973" for "June 30, 1970".

PRIOR PROVISIONS

The following Acts authorized indemnity payments for the periods ending as indicated:

June 30, 1968—Pub. L. 90-95, Sept. 28, 1967, 81 Stat. 231.

June 30, 1967—Pub. L. 89-794, title III, § 301(c), Nov. 8, 1966, 80 Stat. 1465.

June 30, 1966—Pub. L. 89-253, § 24, Oct. 29, 1965, 79 Stat. 977.

June 30, 1965—Pub. L. 89-16, title III, § 303, Apr. 30, 1965, 79 Stat. 108.

Jan. 31, 1965—Pub. L. 88-452, title III, § 331, Aug. 20, 1964, 78 Stat. 525.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 450k of this title.

CHAPTER 18—COOPERATIVE MARKETING

Sec.
451. Agricultural products defined.
452. Supervision of division of cooperative marketing.
453. Authority and duties of division.
454. Advisers to counsel with Secretary of Agriculture; expenses and subsistence.
455. Dissemination of crop, market, etc., information by cooperative marketing associations.
456. Rules and regulations; appointment, removal, and compensation of employees; expenditures; authorization of appropriations.
457. Separability of provisions.

§ 451. Agricultural products defined

When used in this chapter the term "agricultural products" means agricultural, horticultural, viticultural, and dairy products, livestock and the products thereof, the products of poultry and bee raising, the edible products of forestry, and any and all products raised or produced on farms and processed or manufactured products thereof, transported or intended to be transported in interstate and/or foreign commerce.

(July 2, 1926, ch. 725, § 1, 44 Stat. 802.)

CROSS REFERENCES

Associations of producers of agricultural products, see sections 291 and 292 of this title.

Banks for cooperatives, see section 2001 et seq. of Title 12, Banks and Banking.

Organization and development of cooperative associations, see sections 1141, 1141b et seq. of Title 12.

§ 452. Supervision of division of cooperative marketing

The division of cooperative marketing shall be under the direction and supervision of the Secretary of Agriculture.

(July 2, 1926, ch. 725, § 2, 44 Stat. 802.)

CODIFICATION

First sentence of section, which provided that "The Secretary of Agriculture is hereby authorized and directed to establish a division of cooperative marketing with suitable personnel in the Bureau of Agricultural Economics of the Department of Agriculture or in such bureau in the Department of Agriculture as may hereafter be concerned with the marketing and distribution of farm products" has been omitted as executed.

TRANSFER TO SECRETARY OF AGRICULTURE

Act Aug. 6, 1953, ch. 335, § 9, 67 Stat. 394, provided: "There is hereby transferred from the Farm Credit Administration to the jurisdiction and control of the Secretary of Agriculture the Division of Cooperative Marketing (by whatever name now called) authorized and created under and by virtue of an Act of Congress of July 2, 1926 (Public, Numbered 450, Sixty-ninth Congress), entitled 'An Act to create a Division of Cooperative Marketing in the Department of Agriculture; to provide for the acquisition and dissemination of information pertaining to cooperation; to promote the knowledge of cooperative principles and practices; to provide for calling advisers to counsel with the Secretary of Agriculture on cooperative activities; to authorize cooperative associations to acquire, interpret, and disseminate crop and market information, and for other purposes [this chapter]', together with all functions pertaining to the work and services of such Division, its personnel, property (including office equipment), assets, funds, contracts, and records used and employed in the execution of its functions, powers, and duties, and so much of the unexpended balances of appropriations, allocations, and other funds available or to be made available for salaries, expenses, and all other administrative expenditures as the Director of the Bureau of the Budget [now Director of the Office of Management and Budget] shall determine, for use in the execution of the functions, powers, and duties of said Division."

TRANSFER OF FUNCTIONS

The Farmer Cooperative Service was established in the Department of Agriculture Dec. 4, 1953, pursuant to Secretary's Memorandum 1320, Supp. 4, 1953 as successor to the functions of the Cooperative Research and Service Division, Farm Credit Administration.

Ex. Ord. No. 9322, Mar. 26, 1943, 8 F.R. 3807, as amended by Ex. Ord. No. 9334, Apr. 19, 1943, 8 F.R. 5423, removed the Farm Credit Administration from the Food Production Administration of the Department of Agriculture and returned it to its former status as a separate agency of the Department.

Ex. Ord. No. 9280, Dec. 5, 1942, 7 F.R. 10179, made the Farm Credit Administration a part of the Food Production Administration of the Department of Agriculture.

The Farm Credit Administration was transferred to the Department of Agriculture by 1939 Reorg. Plan No. I, § 401, 4 F.R. 2727, 53 Stat. 1423, set out in the Appendix to Title 5, Government Organization and Employees.

Ex. Ord. No. 6084, Mar. 27, 1933, set out as a note preceding section 2241 of Title 12, Banks and Banking, changed the name of the Federal Farm Board to Farm Credit Administration and the name of the office of Chairman of the Federal Farm Board to Governor of the Farm Credit Administration.

Ex. Ord. No. 5200, Oct. 1, 1929, transferred, eff. Oct. 1, 1929, from the Department of Agriculture to the jurisdiction and control of Federal Farm Board the whole of the Division of Cooperative Marketing in the Bureau of Agricultural Economics of the Department of Agriculture, all functions pertaining to the work and services of such division, its records, property, including office equipment, personnel, and unexpended balances of appropriation, pertaining to such work or services.

EXCEPTIONS FROM TRANSFER OF FUNCTIONS

Functions of the Corporations of the Department of Agriculture, the boards of directors and officers of such corporations; the Advisory Board of the Commodity Credit Corporation; and the Farm Credit Administration or any agency, officer or entity of, under, or subject to the supervision of the said Administration were excepted from the functions of officers, agencies and employees transferred to the Secretary of Agriculture by 1953 Reorg. Plan No. 2, § 1, eff. June 4, 1953, 18 F.R. 3219, 67 Stat. 633, set out as a note under section 2201 of this title.

§ 453. Authority and duties of division

(a) The division shall render service to associations of producers of agricultural products, and federations and subsidiaries thereof, engaged in the cooperative marketing of agricultural products, including processing, warehousing, manufacturing, storage, the cooperative purchasing of farm supplies, credit, financing, insurance, and other cooperative activities.

(b) The division is authorized—

(1) To acquire, analyze, and disseminate economic, statistical, and historical information regarding the progress, organization, and business methods of cooperative associations in the United States and foreign countries.

(2) To conduct studies of the economic, legal, financial, social, and other phases of cooperation, and publish the results thereof. Such studies shall include the analyses of the organization, operation, financial and merchandising problems of cooperative associations.

(3) To make surveys and analyses if deemed advisable of the accounts and business practices of representative cooperative associations upon their request; to report to the association so surveyed the results thereof; and with the consent of the association so surveyed to publish summaries of the results of such surveys, together with similar facts, for the guidance of cooperative associations and for the purpose of assisting cooperative associations in developing methods of business and market analysis.

(4) To confer and advise with committees or groups of producers, if deemed advisable, that may be desirous of forming a cooperative association and to make an economic survey and analysis of the facts surrounding the production and marketing of the agricultural product or products which the association, if formed, would handle or market.

(5) To acquire from all available sources information concerning crop prospects, supply, demand, current receipts, exports, imports, and prices of the agricultural products handled or marketed by cooperative associations, and to employ qualified commodity marketing specialists to summarize and analyze this information and disseminate the same among cooperative associations and others.

(6) To promote the knowledge of cooperative principles and practices and to cooperate, in promoting such knowledge, with educational and marketing agencies, cooperative associations, and others.

(7) To make such special studies, in the United States and foreign countries, and to acquire and disseminate such information and findings as may be useful in the development and practice of cooperation.

(July 2, 1926, ch. 725, § 3, 44 Stat. 802.)

§ 454. Advisers to counsel with Secretary of Agriculture; expenses and subsistence

The Secretary of Agriculture is authorized, in his discretion, to call advisers to counsel with him and/or his representatives relative to specific problems of cooperative marketing of farm products or any other cooperative activity. Any person, other than an officer, agent, or employee of the United States, called into conference, as provided for in this section, may be paid actual transportation expenses and not to exceed $10 per diem to cover subsistence and other expenses while in conference and en route from and to his home.

(July 2, 1926, ch. 725, § 4, 44 Stat. 803.)

TRANSFER TO SECRETARY OF AGRICULTURE

Transfer of Division of Cooperative Marketing "(by whatever name now called)" from the Farm Credit Administration to Secretary of Agriculture, by act Aug. 6, 1953, ch. 335, § 9, 67 Stat. 394, see note under section 452 of this title.

TRANSFER OF FUNCTIONS

The Farmer Cooperative Service in the Department of Agriculture as successor to the functions of the Cooperative Research and Service Division, Farm Credit Administration, see note under section 452 of this title.

Ex. Ord. No. 9322, Mar. 26, 1943, 8 F.R. 3807, as amended by Ex. Ord. No. 9334, Apr. 19, 1943, 8 F.R. 5423, removed the Farm Credit Administration from the Food Production Administration of the Department of Agriculture and returned it to its former status as a separate agency of the Department.

Ex. Ord. No. 9280, Dec. 5, 1942, 7 F.R. 10179, made the Farm Credit Administration a part of the Food Production Administration of the Department of Agriculture.

The Farm Credit Administration was transferred to the Department of Agriculture by 1939 Reorg. Plan No. 1, § 401, 4 F.R. 2727, 53 Stat. 1423, set out in the Appendix to Title 5, Government Organization and Employees.

Ex. Ord. No. 6084, Mar. 27, 1933, set out as a note preceding section 2241 of Title 12, Banks and Banking, changed the name of the Federal Farm Board to Farm Credit Administration and the name of the office of Chairman of the Federal Farm Board to Governor of the Farm Credit Administration.

Division of Cooperative Marketing in the Bureau of Agricultural Marketing transferred from the Department of Agriculture to the Federal Farm Board by 1929 Ex. Ord. No. 5200, eff. Oct. 1, 1929. See note under section 452 of this title.

EXCEPTIONS FROM TRANSFER OF FUNCTIONS

Functions of the Corporations of the Department of Agriculture, the boards of directors and officers of such corporations; the Advisory Board of the Commodity Credit Corporation; and the Farm Credit Administration or any agency, officer or entity of, under, or subject to the supervision of the said Administration were excepted from the functions of officers, agencies and employees transferred to the Secretary of Agriculture by 1953 Reorg. Plan No. 2, § 1, eff. June 4, 1953, 18 F.R. 3219, 67 Stat. 633, set out as a note under section 2201 of this title.

§ 455. Dissemination of crop, market, etc., information by cooperative marketing associations

Persons engaged, as original producers of agricultural products, such as farmers, planters, ranchmen, dairymen, nut or fruit growers, acting together in associations, corporate or otherwise, in collectively processing, preparing for market, handling, and marketing in interstate and/or foreign commerce such products of persons so engaged, may acquire, exchange, interpret, and disseminate past, present, and prospective crop, market, statistical, economic, and other similar information by direct exchange between such persons, and/or such associations or federations thereof, and/or by and

through a common agent created or selected by them.

(July 2, 1926, ch. 725, § 5, 44 Stat. 803.)

§ 456. Rules and regulations; appointment, removal, and compensation of employees; expenditures; authorization of appropriations

The Secretary of Agriculture may make such rules and regulations as may be deemed advisable to carry out the provisions of this chapter and may cooperate with any department or agency of the Government, any State, Territory, District, or possession, or department, agency, or political subdivision thereof, or any person; and may call upon any other Federal department, board, or commission for assistance in carrying out the purposes of this chapter; and shall have the power to appoint, remove, and fix the compensation of such officers and employees not in conflict with existing law and make such expenditure for rent, outside the District of Columbia, printing, telegrams, telephones, books of reference, books of law, periodicals, newspapers, furniture, stationery, office equipment, travel, and other supplies and expenses as shall be necessary to the administration of this chapter in the District of Columbia and elsewhere, and there is hereby authorized to be appropriated, such sums as may be necessary after the fiscal year 1927, for carrying out the purposes of this chapter.

(July 2, 1926, ch. 725, § 6, 44 Stat. 803.)

TRANSFER TO SECRETARY OF AGRICULTURE

Transfer of Division of Cooperative Marketing "(by whatever name now called)" from the Farm Credit Administration to the Secretary of Agriculture, by act Aug. 6, 1953, ch. 335, § 9, 67 Stat. 394, see note under section 452 of this title.

TRANSFER OF FUNCTIONS

The Farmer Cooperative Service in the Department of Agriculture as successor to the functions of the Cooperative Research and Service Division, Farm Credit Administration, see note under section 452 of this title.

Ex. Ord. No. 9322, Mar. 26, 1943, 8 F.R. 3807, as amended by Ex. Ord. No. 9334, Apr. 19, 1943, 8 F.R. 5423, removed the Farm Credit Administration from the Food Production Administration of the Department of Agriculture and returned it to its former status as a separate agency of the Department.

Ex. Ord. No. 9280, Dec. 5, 1942, 7 F.R. 10179, made the Farm Credit Administration a part of the Food Production Administration of the Department of Agriculture.

The Farm Credit Administration was transferred to the Department of Agriculture by 1939 Reorg. Plan No. 1, § 401, 4 F.R. 2727, 53 Stat. 1423, set out in the Appendix to Title 5, Government Organization and Employees.

Ex. Ord. No. 6084, Mar. 27, 1933, set out as a note preceding section 2241 of Title 12, Banks and Banking, changed the name of the Federal Farm Board to Farm Credit Administration and the name of the office of Chairman of the Federal Farm Board to Governor of the Farm Credit Administration.

Division of Cooperative Marketing in the Bureau of Agricultural Marketing transferred from the Department of Agriculture to the Federal Farm Board by 1929 Ex. Ord. No. 5200, eff. Oct. 1, 1929. See note under section 452 of this title.

EXCEPTIONS FROM TRANSFER OF FUNCTIONS

Functions of the Corporations of the Department of Agriculture, the boards of directors and officers of such corporations; the Advisory Board of the Commodity Credit Corporation; and the Farm Credit Administration or any agency, officer or entity of, under, or subject to the supervision of the said Administration were excepted from the functions of officers, agencies and employees transferred to the Secretary of Agriculture by 1953 Reorg. Plan No. 2, § 1, eff. June 4, 1953, 18 F.R. 3219, 67 Stat. 633, set out as a note under section 2201 of this title.

§ 457. Separability of provisions

If any provision of this chapter is declared unconstitutional or the applicability thereof to any person or circumstance is held invalid, the validity of the remainder of the chapter and the applicability of such provision to other persons and circumstances shall not be affected thereby, and nothing contained in this chapter is intended nor shall be construed, to modify or repeal any of the provisions of sections 291 and 292 of this title.

(July 2, 1926, ch. 725, § 7, 44 Stat. 803.)

CHAPTER 19—COTTON STATISTICS AND ESTIMATES

Sec.
471. Statistics and estimates of grades and staple length of cotton; collection and publication.
472. Information furnished of confidential character; penalty for divulging information.
473. Persons required to furnish information; request; failure to furnish; false information.
473a. Classification of cotton on request of producer.
473b. Market supply, demand, condition and prices; collection and publication of information.
473c. Rules and regulations.
473c-1. Offenses in relation to sampling of cotton for classification.
473c-2. Penalties for offenses relating to sampling of cotton.
473c-3. Liability of principal for act of agent.
473d. Quality tests and analyses by Secretary for breeders and others; fees.
474. Powers of Secretary of Agriculture; appropriation.
475. Cotton crop reports.
476. Acreage reports.

§ 471. Statistics and estimates of grades and staple length of cotton; collection and publication

The Secretary of Agriculture is authorized and directed to collect and publish annually, on dates to be announced by him, statistics or estimates concerning the grades and staple length of stocks of cotton, known as the carry-over, on hand on the 1st of August of each year in warehouses and other establishments of every character in the continental United States; and following such publication each year, to publish, at intervals in his discretion, his estimate of the grades and staple length of cotton of the then current crop: *Provided*, That not less than three such estimates shall be published with respect to each crop. In any such statistics or estimates published, the cotton which on the date for which such statistics are published may be recognized as tenderable on contracts of sale of cotton for future delivery under the United States Cotton Futures Act, shall be stated separately from that which may be untenderable under said Act.

(Mar. 3, 1927, ch. 337, § 1, 44, Stat. 1372.)

REFERENCES IN TEXT

The United States Cotton Futures Act, referred to in text, is act Aug. 11, 1916, ch. 313, part A, 39 Stat. 476, which was repealed by section 4 of act Feb. 10, 1939, ch. 2, 53 Stat. 1.

SHORT TITLE

Act Mar. 3, 1927, which is classified to sections 471 to 474 and amended sections 475 and 476 of this title, is popularly known as the "Cotton Statistics and Estimates Act".

§ 472. Information furnished of confidential character; penalty for divulging information

The information furnished by any individual establishment under the provisions of this chapter shall be considered as strictly confidential and shall be used only for the statistical purpose for which it is supplied. Any employee of the Department of Agriculture who, without the written authority of the Secretary of Agriculture, shall publish or communicate any information given into his possession by reason of his employment under the provisions of this chapter shall be guilty of a misdemeanor and shall, upon conviction thereof, be fined not less than $300 or more than $1,000, or imprisoned for a period of not exceeding one year, or both so fined and imprisoned, at the discretion of the court.

(Mar. 3, 1927, ch. 337, § 2, 44 Stat. 1373.)

CROSS REFERENCES

Misdemeanor defined, see section 1 of Title 18, Crimes and Criminal Procedure.

§ 473. Persons required to furnish information; request; failure to furnish; false information

It shall be the duty of every owner, president, treasurer, secretary, director, or other officer or agent of any cotton warehouse, cotton ginnery, cotton mill, or other place or establishment where cotton is stored, whether conducted as a corporation, firm, limited partnership, or individual, and of any owner or holder of any cotton and of the agents and representatives of any such owner or holder, when requested by the Secretary of Agriculture or by any special agent or other employee of the Department of Agriculture acting under the instructions of said Secretary to furnish completely and correctly, to the best of his knowledge, all of the information concerning the grades and staple length of cotton on hand, and when requested to permit such agent or employee of the Department of Agriculture to examine and classify samples of all such cotton on hand. The request of the Secretary of Agriculture for such information may be made in writing or by a visiting representative, and if made in writing shall be forwarded by registered mail, or by certified mail and the registry receipt or receipt for certified mail of the United States Postal Service shall be accepted as evidence of such demand. Any owner, president, treasurer, secretary, director, or other officer or agent of any cotton warehouse, cotton ginnery, cotton mill, or other place or establishment where cotton is stored, or any owner or holder of any cotton or the agent or representative of any such owner or holder, who, under the conditions hereinbefore stated, shall refuse or willfully neglect to furnish any information herein provided for or shall willfully give answers that are false or shall refuse to allow agents or employees of the Department of Agriculture to examine or classify any cotton in store in any such establishment, or in the hands of any owner or holder or of the agent or representative of any such owner or holder, shall be guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than $300 or more than $1,000.

(Mar. 3, 1927, ch. 337, § 3, 44 Stat. 1373; June 11, 1960, Pub. L. 86-507, § 1(3), 74 Stat. 200; Aug. 12, 1970, Pub. L. 91-375, § 6(*o*), 84 Stat. 733.)

AMENDMENTS

1960—Pub. L. 86-507 inserted "or by certified mail" following "registered mail", and "or receipt for certified mail" following "registry receipt."

CHANGE OF NAME

Reference to the Post Office Department has been changed to the United States Postal Service pursuant to Pub. L. 91-375, § 6(*o*), Aug. 12, 1970, 84 Stat. 733, set out as a note preceding section 101 of Title 39, Postal Service.

CROSS REFERENCES

Misdemeanor defined, see section 1 of Title 18, Crimes and Criminal Procedure.

§ 473a. Classification of cotton on request of producer

The Secretary of Agriculture, upon request in writing from any group of producers organized to promote the improvement of cotton who comply with such regulations as he may prescribe, is authorized and directed to determine and to make promptly available to such producers, the classification, in accordance with the official cotton standards of the United States, of any cotton produced by them. The Secretary of Agriculture is further authorized to pay the transportation charges and to furnish tags and containers for the samples of cotton submitted for classification under this section, and all samples of cotton so classified shall become the property of the Government, and the proceeds of any sales thereof after classification shall be covered into the Treasury of the United States as miscellaneous receipts.

(Mar. 3, 1927, ch. 337, § 3a, as added Apr. 13, 1937, ch. 75, 50 Stat. 62.)

SHORT TITLE

Act Apr. 13, 1937, which enacted sections 473a to 473c of this title, is popularly known as the "Cotton Classification Act."

§ 473b. Market supply, demand, condition and prices; collection and publication of information

The Secretary of Agriculture is also authorized and directed to collect, authenticate, publish, and distribute, by telegraph, radio, mail, or otherwise, timely information on the market supply, demand, location, condition, and market prices for cotton, and to cause to be prepared regularly and distributed for posting at gins, in post offices, or in other public or conspicuous places in cotton-growing communities,

information on prices for the various grades and staple lengths of cotton.

(Mar. 3, 1927, ch. 337, § 3b, as added Apr. 13, 1937, ch. 75, 50 Stat. 62.)

§ 473c. Rules and regulations

The Secretary of Agriculture is further authorized to make such rules and regulations as he may deem necessary to effectuate the purposes of this chapter.

(Mar. 3, 1927, ch. 337, § 3c, as added Apr. 13, 1937, ch. 75, 50 Stat. 62.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 473c-1 of this title.

§ 473c-1. Offenses in relation to sampling of cotton for classification

It shall be unlawful—

(a) for any person sampling cotton for classification under this chapter knowingly to sample cotton improperly, or to identify cotton samples improperly, or to accept money or other consideration, directly or indirectly, for any neglect or improper performance of duty as a sampler;

(b) for any person to influence improperly or to attempt to influence improperly or to forcibly assault, resist, impede, or interfere with any sampler in the taking of samples for classification under this chapter,

(c) for any person knowingly to alter or cause to be altered a sample taken for classification under this chapter by any means such as trimming, peeling, or dressing the sample, or by removing any leaf, trash, dust, or other material from the sample for the purpose of misrepresenting the actual quality of the bale from which the sample was taken;

(d) for any person knowingly to cause, or attempt to cause, the issuance of a false or misleading certificate or memorandum of classification under this chapter by deceptive baling, handling, or sampling of cotton, or by any other means, or by submitting samples of such cotton for classification knowing that the cotton has been so baled, handled, or sampled;

(e) for any person knowingly to submit more than one sample from the same bale of cotton for classification under this chapter, except a second sample submitted for review classification;

(f) for any person knowingly to operate or adjust a mechanical cotton sampler in such a manner that a representative sample is not drawn from each bale; and

(g) for any person knowingly to violate any regulation of the Secretary of Agriculture relating to the sampling of cotton made pursuant to section 473c of this title.

(Mar. 3, 1927, ch. 337, § 3c-1, as added July 5, 1960, Pub. L. 86-588, 74 Stat. 328.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 473c-2 of this title.

§ 473c-2. Penalties for offenses relating to sampling of cotton

Any person violating any provision of section 473c-1 of this title shall be guilty of a misdemeanor and upon conviction thereof shall be fined not more than $1,000, or imprisoned not more than one year, or both.

(Mar. 3, 1927, ch. 337, § 3c-2, as added July 5, 1960, Pub. L. 86-588, 74 Stat. 329.)

CROSS REFERENCES

Misdemeanor defined, see section 1 of Title 18, Crimes and Criminal Procedure.

§ 473c-3. Liability of principal for act of agent

In construing and enforcing the provisions of this chapter, the act, omission, or failure of any agent, officer, or other person acting for or employed by an individual, association, partnership, corporation, or firm, within the scope of his employment or office, shall be deemed to be the act, omission, or failure of the individual, association, partnership, corporation, or firm, as well as that of the person.

(Mar. 3, 1927, ch. 337, § 3c-3, as added July 5, 1960, Pub. L. 86-588, 74 Stat. 329.)

§ 473d. Quality tests and analyses by Secretary for breeders and others; fees

The Secretary of Agriculture is authorized to make analyses of fiber properties, spinning tests, and other tests of the quality of cotton samples submitted to him by cotton breeders and other persons, subject to such terms and conditions and to the payment by such cotton breeders and other persons of such fees as he may prescribe by regulations under this chapter. The fees to be assessed hereunder shall be reasonable, and, as nearly as may be, to cover the cost of the service rendered.

(Mar. 3, 1927, ch. 337, § 3d, as added Apr. 7, 1941, ch. 42, 55 Stat. 131.)

§ 474. Powers of Secretary of Agriculture; appropriation

The Secretary of Agriculture may cooperate with any department or agency of the Government, any State, Territory, District, or possession, or department, agency, or political subdivision thereof, or any person; and shall have the power to appoint, remove, and fix the compensation of such officers and employees, not in conflict with existing law, and make such expenditures for the purchase of samples of cotton, for rent outside the District of Columbia, printing, telegrams, telephones, books of reference, periodicals, furniture, stationery, office equipment, travel, and other supplies and expenses as shall be necessary to the administration of this chapter in the District of Columbia and elsewhere and there are authorized to be appropriated, out of any moneys in the Treasury not otherwise appropriated such sums as may be necessary for such purposes.

(Mar. 3, 1927, ch. 337, § 4, 44 Stat. 1373.)

TRANSFER OF FUNCTIONS

All functions of all officers, agencies and employees of the Department of Agriculture were transferred, with certain exceptions, to the Secretary of Agricul-

ture by 1953 Reorg. Plan No. 2, § 1, eff. June 4, 1953, 18 F.R. 3219, 67 Stat. 633, set out as a note under section 2201 of this title.

§ 475. Cotton crop reports

The Secretary of Agriculture shall cause to be issued as of the first of each month during the cotton growing and harvesting season from August to January inclusive, reports describing the condition and progress of the crop and stating the probable number of bales which will be ginned, these reports to be issued simultaneously with the cotton ginning reports of the Bureau of the Census relating to the same dates, the two reports to be issued from the same place at 3 o'clock postmeridian on or before the 12th day of the month to which the respective reports relate. No such report shall be approved and released by the Secretary of Agriculture until it shall have been passed upon by a cotton crop reporting board consisting of five members or more to be designated by him. Not less than three members of the board shall be supervisory field statisticians of the Department of Agriculture who are located in different sections of the cotton-growing States, are experienced in estimating cotton production, and have first-hand knowledge of the condition of the cotton crop based upon recent field observations. A majority of the members of the board shall be familiar with the methods and practices of producing cotton.

(May 3, 1924, ch. 149, § 1, 43 Stat. 115; Mar. 3, 1927, ch. 337, § 5, 44 Stat. 1373; Aug. 8, 1946, ch. 909, 60 Stat. 940; May 29, 1958, Pub.L. 85-430, § 2, 72 Stat. 149; June 30, 1972, Pub. L. 92-331, § 1, 86 Stat. 400.)

Codification

Section was not enacted as part of the Cotton Statistics and Estimates Act which is classified to sections 471 to 474 of this title but is amendatory of this section and section 476 of this title.

Amendments

1972—Pub. L. 92-331 substituted "January" for "December", substituted provisions requiring the two reports to be issued from the same place at 3 o'clock postmeridian on or before the 12th day of the month to which the respective reports relate for provisions requiring the two reports to be issued from the same place at 11 o'clock antemeridian on the 8th day following that on which the respective reports relate, struck out provisions setting forth the date of release in the event the original release date falls on a Sunday, legal holiday, or other nonworkday in the Department of Agriculture at Washington, and struck out reference to cotton-crop reporting committee.

1958—Pub. L. 85-430 eliminated provisions which required the Secretary of Agriculture to discontinue making his reports based upon farmers' intention to plant cotton.

1946—Act Aug. 8, 1946 provided for the issuing of releases on the next succeeding workday following any day which pursuant to an Executive order or statute is a nonworkday in addition to the same provision relating to Sundays and legal holidays.

1927—Act Mar. 3, 1927 provided for monthly instead of semimonthly publication of cotton crop reports.

Transfer of Functions

The functions of all other officers of the Department of Commerce and all functions of all agencies and employees of such Department, were, with a few exceptions, transferred to the Secretary of Commerce, with power vested in him to authorize their performance or the performance of any of his functions, by any of such officers, agencies, and employees, by 1950 Reorg. Plan No. 5, §§ 1, 2, 64 Stat. 1263, set out in the Appendix to Title 5, Government Organization and Employees. The Bureau of the Census, referred to in this section, is a bureau of the Department of Commerce.

§ 476. Acreage reports

The Secretary of Agriculture shall cause to be issued a report on or before the 12th day of July of each year showing by States and in toto the estimated acreage of cotton planted, to be followed on or before the 12th day of August with an estimate of the acreage for harvest and on or before the 12th day of December with an estimate of the harvested acreage.

(May 27, 1912, ch. 135, § 1, 37 Stat. 118; Mar. 3, 1927, ch. 337, § 6, 44 Stat. 1374; May 29, 1958, Pub.L. 85-430, § 1, 72 Stat. 149; June 30, 1972, Pub. L. 92-331, § 2, 86 Stat. 400.)

Codification

Section was not enacted as part of the Cotton Statistics and Estimates Act which is classified to sections 471 to 474 of this title but is amendatory of this section and section 475 of this title.

Amendments

1972—Pub. L. 92-331 substituted "12th" for "10th", "on or before the 12th day of August" for "on August 1", and "on or before the 12th day of December" for "on December 1".

1958—Pub. L. 85-430 substituted provisions requiring the report to show the estimated acreage of cotton planted, to be followed with an estimate of the acreage for harvest and an estimate of the harvested acreage for provisions which required the report to show the number of acres of cotton in cultivation on July 1 of each year, followed with an estimate of the acreage of cotton abandoned since July 1.

1927—Act Mar. 3, 1927 omitted words "Bureau of Statistics of the Department of Agriculture", substituted "on or before the 10th day of July" for "on or about the first Monday in July" and added "on July 1, to be followed on September 1 and December 1 with an estimate of the acreage of cotton abandoned since July 1" after "cultivation".

CHAPTER 20—DUMPING OR DESTRUCTION OF INTERSTATE PRODUCE

Sec.
491. Destruction or dumping of farm produce received in interstate commerce by commission merchants, etc.; penalty.
492. Repealed.
493. Enforcement of provisions; prosecution of cases.
494. Rules and regulations; cooperation with States, etc., officers and employees; expenditures.
495. Authorization of appropriations.
496. Validity of other statutes dealing with same subject.
497. Separability of provisions.

Chapter Referred to in Other Sections

This chapter is referred to in section 499s of this title.

§ 491. Destruction or dumping of farm produce received in interstate commerce by commission merchants, etc.; penalty

After June 30, 1927, any person, firm, association, or corporation receiving any fruits, vegetables, melons, dairy, or poultry products or any perishable farm products of any kind or

character, hereinafter referred to as produce, in interstate commerce, or in the District of Columbia, for or on behalf of another, who without good and sufficient cause therefor shall destroy or abandon, discard as refuse or dump any produce directly or indirectly or through collusion with any person, or who shall knowingly and with intent to defraud make any false report or statement to the person, firm, association, or corporation from whom any produce was received, concerning the handling, condition, quality, quantity, sale, or disposition thereof or who shall knowingly and with intent to defraud fail truly and correctly to account therefor shall be guilty of a misdemeanor and upon conviction shall be punished by a fine of not less than $100 and not more than $3,000, or by imprisonment for a period of not exceeding one year, or both, at the discretion of the court.

(Mar. 3, 1927, ch. 309, § 1, 44 Stat. 1355.)

CODIFICATION

Section constitutes part of section 1 of act Mar. 3, 1927. Remainder of section 1 was classified to former section 492 of this title.

CROSS REFERENCES

Misdemeanor defined, see section 1 of Title 18, Crimes and Criminal Procedure.

Unfair conduct by commission merchants, see section 499b of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 499c, 499d, 499n of this title.

§ 492. Repealed. Aug. 9, 1955, ch. 632, § 2, 69 Stat. 553

Section, act Mar. 3, 1927, ch. 309, § 1, 44 Stat. 1355, related to investigation of quality and condition of produce received in interstate commerce, and is now covered by section 1622(h) of this title.

§ 493. Enforcement of provisions; prosecution of cases

The Secretary of Agriculture is authorized and directed to enforce this chapter. It is made the duty of all United States attorneys to prosecute cases arising under this chapter, subject to the supervision and control of the Department of Justice.

(Mar. 3, 1927, ch. 309, § 2, 44 Stat. 1355.)

CROSS REFERENCES

Supervision of United States attorneys by Attorney General, see section 519 of Title 28, Judiciary and Judicial Procedure.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 499c, 499d, 499n of this title.

§ 494. Rules and regulations; cooperation with States, etc., officers and employees; expenditures

The Secretary of Agriculture may make such rules and regulations as he may deem advisable to carry out the provisions of this chapter and may cooperate with any department or agency of the Government, any State, Territory, District, or possession, or department, agency, or political subdivision thereof, or any person; and may call upon any Federal department, board, or commission for assistance in carrying out the purposes of this chapter; and shall have the power to appoint, remove, and fix the compensation of such officers and employees not in conflict with existing law and make such expenditure for rent, outside the District of Columbia, printing, telegrams, telephones, books of reference, books of law, periodicals, newspapers, furniture, stationery, office equipment, travel, and other supplies and expenses as shall be deemed necessary to the administration of this chapter in the District of Columbia and elsewhere.

(Mar. 3, 1927, ch. 309, § 3, 44 Stat. 1355.)

CODIFICATION

Section constitutes part of section 3 of act Mar. 3, 1927. Remainder of section 3 is classified to sections 495 and 496 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 499c, 499d, 499n of this title.

§ 495. Authorization of appropriations

There is authorized to be appropriated, out of any moneys in the Treasury not otherwise appropriated, such sums as may be necessary after the fiscal year beginning July 1, 1927 to carry out the purposes of this chapter.

(Mar. 3, 1927, ch. 309, § 3, 44 Stat. 1355.)

CODIFICATION

Section constitutes part of section 3 of act Mar. 3, 1927. Remainder of section 3 is classified to sections 494 and 496 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 499c, 499d, 499n of this title.

§ 496. Validity of other statutes dealing with same subject

This chapter shall not abrogate nor nullify any other statute, whether State or Federal, dealing with the same subjects as this chapter, but it is intended that all such statutes shall remain in full force and effect, except insofar only as they are inconsistent herewith or repugnant hereto.

(Mar. 3, 1927, ch. 309, § 3, 44 Stat. 1355.)

CODIFICATION

Section constitutes part of section 3 of act Mar. 3, 1927. Remainder of section 3 is classified to sections 494 and 495 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 499c, 499d, 499n of this title.

§ 497. Separability of provisions

If any provision of this chapter is declared unconstitutional or the applicability thereof to any person or circumstance is held invalid, the validity of the remainder of the chapter and the applicability of such provisions to other persons and circumstances shall not be affected thereby.

(Mar. 3, 1927, ch. 309, § 4, 44 Stat. 1356.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 499c, 499d, 499n of this title.

CHAPTER 20A—PERISHABLE AGRICULTURAL COMMODITIES

Sec.
499a. Definitions.
499b. Unfair conduct.
499c. Licenses
(a) By whom license required, penalty for failure to obtain.
(b) Application; fees; creation of Perishable Agricultural Commodities Act Fund; availability of fund for administrative expenses; budget requirements; notice of increase in annual fee; filing of views and objections to increase.
(c) Trade names; disapproval by Secretary; suspension of license for use of disapproved name; refusal of license for deceptive, misleading, or confusing name.
499d. Issuance of license.
(a) Authority to do business; termination; renewal.
(b) Refusal of license; grounds.
(c) Issuance of license upon furnishing bond; issuance after three years without bond; effect of termination of bond; increase or decrease in amount; payment of increase.
(d) Withholding license pending investigation.
(e) Refusal of license.
499e. Liability to persons injured.
(a) Amount of damages.
(b) Remedies.
499f. Complaint and investigation.
(a) Petition to Secretary of Agriculture; time of making; contents; service; answer.
(b) Complaint to Secretary requesting investigation of violations; by whom made.
(c) Service of complaint; hearing.
(d) Determination by Secretary of violations.
(e) Complaints by nonresidents; bond for costs and fees.
499g. Reparation order.
(a) Determination by Secretary of Agriculture of amount of damages; order for payment.
(b) Failure to comply with order of Secretary; suit to enforce liability; order as evidence; costs and fees.
(c) Appeal from reparation order; proceedings.
(d) Suspension of license for failure to obey reparation order or appeal.
499h. Grounds for suspension or revocation of license.
(a) Authority of Secretary.
(b) Unlawful employment of certain persons; restrictions; bond assuring compliance; approval of employment without bond; change in amount of bond; payment of increased amount; penalties.
(c) Fraud in procurement.
(d) Injunction.
499i. Accounts, records, and memoranda; duty of licensees to keep; contents; suspension of license for violation of duty.
499j. Orders; effective date; continuance in force; suspension, modification and setting aside; penalty.
499k. Injunctions; application of injunction laws governing orders of Interstate Commerce Commission.
Sec.
499l. Violations; report to Attorney General; proceedings; costs.
499m. Complaints; procedure, penalties, etc.
(a) Investigation by Secretary of Agriculture; inspection of accounts, records, and memoranda; penalty for refusing inspection.
(b) Hearings; subpoenas; oaths; witnesses; evidence.
(c) Disobedience to subpoenas; remedy; contempt.
(d) Depositions; production of accounts, records and memoranda.
(e) Fees and mileage of witnesses.
499n. Inspection of perishable agricultural commodities.
(a) Employment of inspectors; fees and expenses; inspection certificate as evidence.
(b) Issuance of fraudulent certificates; penalties.
499o. Rules, regulations, and orders; appointment, removal, and compensation of officers and employees; expenditures; authorization of appropriations; abrogation of inconsistent statutes.
499p. Liability of licensees for acts and omissions of agents.
499q. Separability of provisions.
499r. Short title.
499s. Depositing appropriations in fund.

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in title 28 section 2342.

§ 499a. Definitions

When used in this chapter—

(1) The term "person" includes individuals, partnerships, corporations, and associations;

(2) The term "Secretary" means the Secretary of Agriculture;

(3) The term "interstate or foreign commerce" means commerce between any State or Territory, or the District of Columbia and any place outside thereof; or between points within the same State or Territory, or the District of Columbia but through any place outside thereof; or within the District of Columbia;

(4) The term "perishable agricultural commodity"—

(A) Means any of the following, whether or not frozen or packed in ice: Fresh fruits and fresh vegetables of every kind and character; and

(B) Includes cherries in brine as defined by the Secretary in accordance with trade usages;

(5) The term "commission merchant" means any person engaged in the business of receiving in interstate or foreign commerce any perishable agricultural commodity for sale, on commission, or for or on behalf of another;

(6) The term "dealer" means any person engaged in the business of buying or selling in wholesale or jobbing quantities, as defined by the Secretary, any perishable agricultural commodity in interstate or foreign commerce, except that (A) no producer shall be considered as a "dealer" in respect to sales of any such commodity of his own raising; (B) no person buying any such commodity solely for sale at retail shall be considered as a "dealer"

until the invoice cost of his purchases of perishable agricultural commodities in any calendar year are in excess of $100,000; and (C) no person buying any commodity for canning and/or processing within the State where grown shall be considered a "dealer" whether or not the canned or processed product is to be shipped in interstate or foreign commerce, unless such product is frozen or packed in ice, or consists of cherries in brine, within the meaning of paragraph (4) of this section. Any person not considered as a "dealer" under clauses (A), (B), and (C) may elect to secure a license under the provisions of section 499c of this title, and in such case and while the license is in effect such person shall be considered as a "dealer";

(7) The term "broker" means any person engaged in the business of negotiating sales and purchases of any perishable agricultural commodity in interstate or foreign commerce for or on behalf of the vendor or the purchaser, respectively, except that no person shall be deemed to be a "broker" if such person is an independent agent negotiating sales for and on behalf of the vendor and if the only sales of such commodities negotiated by such person are sales of frozen fruits and vegetables having an invoice value not in excess of $100,000 in any calendar year;

(8) A transaction in respect of any perishable agricultural commodity shall be considered in interstate or foreign commerce if such commodity is part of that current of commerce usual in the trade in that commodity whereby such commodity and/or the products of such commodity are sent from one State with the expectation that they will end their transit, after purchase, in another, including, in addition to cases within the above general description, all cases where sale is either for shipment to another State, or for processing within the State and the shipment outside the State of the products resulting from such processing. Commodities normally in such current of commerce shall not be considered out of such commerce through resort being had to any means or device intended to remove transactions in respect thereto from the provisions of this chapter.

(9) The term "responsibly connected" means affiliated or connected with a commission merchant, dealer, or broker as (A) partner in a partnership, or (B) officer, director, or holder of more than 10 per centum of the outstanding stock of a corporation or association;

(10) The terms "employ" and "employment" mean any affiliation of any person with the business operations of a licensee, with or without compensation, including ownership or self-employment.

(June 10, 1930, ch. 436, § 1, 46 Stat. 531; Apr. 13, 1934, ch. 120, § 1, 48 Stat. 584; Aug. 20, 1937, ch. 719, § 1, 50 Stat. 725; June 29, 1940, ch. 456, §§ 1, 2, 54 Stat. 696; Oct. 1, 1962, Pub. L. 87-725, §§ 1, 2, 76 Stat. 673; Nov. 4, 1969, Pub. L. 91-107, §§ 1, 2, 83 Stat. 182.)

CODIFICATION

Section was formerly classified to section 551 of this title.

AMENDMENTS

1969—Par. (6)(B). Pub. L. 91-107, § 1, substituted "$100,000" for "$90,000".

Par. (7). Pub. L. 91-107, § 2, substituted "$100,000" for "$90,000".

1962—Par. (6). Pub. L. 87-725, § 1, substituted "wholesale or jobbing quantities" for "carloads", the requirement that the dealer's invoice cost of his purchases in any calendar year exceed $90,000 for the requirement that his purchases in such year exceed 20 carloads, and eliminated the definition of "in carloads".

Par. (7). Pub. L. 87-725, § 1, excluded from the definition of "broker", persons who are independent agents negotiating sales for vendors and whose sales are of frozen fruits and vegetables having an invoice value not exceeding $90,000 in any calendar year.

Pars. (9) and (10). Pub. L. 87-725, § 2, added pars. (9) and (10).

1940—Par. (4). Act June 29, 1940, § 1, designated existing provisions as clause (A) and added clause (B).

Par. (6)(C). Act June 29, 1940, § 2, inserted ", or consists of cherries in brine," following "ice".

1937—Par. (6)(C). Act Aug. 20, 1937 inserted "unless such product is frozen or packed in ice within the meaning of paragraph 4 of this section" following "foreign commerce".

1934—Par. (6)(C). Act Apr. 13, 1934 added clause (C).

§ 499b. Unfair conduct

It shall be unlawful in or in connection with any transaction in interstate or foreign commerce—

(1) For any commission merchant, dealer, or broker to engage in or use any unfair, unreasonable, discriminatory, or deceptive practice in connection with the weighing, counting, or in any way determining the quantity of any perishable agricultural commodity received, bought, sold, shipped, or handled in interstate or foreign commerce;

(2) For any dealer to reject or fail to deliver in accordance with the terms of the contract without reasonable cause any perishable agricultural commodity bought or sold or contracted to be bought, sold, or consigned in interstate or foreign commerce by such dealer;

(3) For any commission merchant to discard, dump, or destroy without reasonable cause, any perishable agricultural commodity received by such commission merchant in interstate or foreign commerce;

(4) For any commission merchant, dealer, or broker to make, for a fraudulent purpose, any false or misleading statement in connection with any transaction involving any perishable agricultural commodity which is received in interstate or foreign commerce by such commission merchant, or bought or sold, or contracted to be bought, sold, or consigned, in such commerce by such dealer, or the purchase or sale of which in such commerce is negotiated by such broker; or to fail or refuse truly and correctly to account and make full payment promptly in respect of any transaction in any such commodity to the person with whom such transaction is had; or to fail, without reasonable cause, to perform any specification or duty, express or implied, arising out of any undertaking in connection with any such transaction;

(5) For any commission merchant, dealer, or broker to misrepresent by word, act, mark, stencil, label, statement, or deed, the character, kind, grade, quality, quantity, size, pack, weight, condition, degree of maturity, or State,

country, or region of origin of any perishable agricultural commodity received, shipped, sold, or offered to be sold in interstate or foreign commerce: *Provided,* That any commission merchant, dealer, or broker who has violated this paragraph may, with the consent of the Secretary, admit the violation or violations and pay a monetary penalty not to exceed $2,000 in lieu of a formal proceeding for the suspension or revocation of license, any payment so made to be deposited into the Treasury of the United States as miscellaneous receipts;

(6) For any commission merchant, dealer, or broker, for a fraudulent purpose, to remove, alter, or tamper with any card, stencil, stamp, tag, or other notice placed upon any container or railroad car containing any perishable agricultural commodity, if such card, stencil, stamp, tag, or other notice contains a certificate or statement under authority of any Federal or State inspector or in compliance with any Federal or State law or regulation as to the grade or quality of the commodity contained in such container or railroad car or the State or country in which such commodity was produced;

(7) For any commission merchant, dealer or broker, without the consent of an inspector, to make, cause, or permit to be made any change by way of substitution or otherwise in the contents of a load or lot of any perishable agricultural commodity after it has been officially inspected for grading and certification, but this shall not prohibit re-sorting and discarding inferior produce.

(June 10, 1930, ch. 436, § 2, 46 Stat. 532; Apr. 13, 1934, ch. 120, §§ 2, 3, 48 Stat. 585; June 19, 1936, ch. 602, § 1, 49 Stat. 1533; Aug. 20, 1937, ch. 719, §§ 2-4, 50 Stat. 725, 726; June 29, 1940, ch. 456, §§ 3, 4, 54 Stat. 696; Apr. 6, 1942, ch. 211, 56 Stat. 200; July 30, 1956, ch. 786, § 1, 70 Stat. 726; Aug. 10, 1974, Pub. L. 93-369, 88 Stat. 423.)

CODIFICATION

Section was formerly classified to section 552 of this title.

AMENDMENTS

1974—Par. (5). Pub. L. 93-369 added proviso for consent admission of violations, payment of monetary penalty not in excess of $2,000 in lieu of formal proceedings for suspension or revocation of license, and for deposit of the payments into the Treasury of the United States as miscellaneous receipts.

1956—Par. (5). Act July 30, 1956, eliminated "for a fraudulent purpose" following "broker", and included misrepresentation of region of origin.

1942—Par. (4). Act Apr. 6, 1942, inserted "and make full payment" and "or to fail, without reasonable cause, to perform any specification or duty, express or implied, arising out of any undertaking in connection with any such transaction".

1940—Par. (1). Act June 29, 1940, § 3, among other changes, inserted "dealer" after "merchant".

Par. (5). Act June 29, 1940, inserted "quantity, size, pack, weight" after "quality".

1937—Par. (5). Act Aug. 20, 1937, § 2, among other changes, inserted "mark, stencil, label, statement" after "act" and "the character, kind, grade, quality, condition, degree of maturity" after "or deed".

Par. (6). Act Aug. 20, 1937, § 3, inserted "or in compliance with any Federal or State law or regulation" after "inspector".

Par. (7). Act Aug. 20, 1937, § 4, added par. (7).

1936—Par. (4). Act June 17, 1936, omitted "or concerning the condition of the market for" after "involving".

1934—Par. (2). Act Apr. 13, 1934, § 2, inserted "or consigned" after "sold".

Par. (4). Act Apr. 13, 1934, § 3, substituted "in connection with any transaction involving or concerning" for "concerning the condition, quality, quantity or disposition of" and inserted "or consigned" after "contracted to be bought or sold".

CROSS REFERENCES

Destruction or dumping of farm products received in interstate commerce by commission merchants, see section 491 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 499d, 499e, 499f, 499g, 499h of this title.

§ 499c. Licenses

(a) By whom license required; penalty for failure to obtain

After December 10, 1930, no person shall at any time carry on the business of a commission merchant dealer, or broker without a license valid and effective at such time. Any person who violates any provision of this subsection shall be liable to a penalty of not more than $500 for each such offense and not more than $25 for each day it continues, which shall accrue to the United States and may be recovered in a civil suit brought by the United States.

Any person violating this provision may, upon a showing satisfactory to the Secretary of Agriculture, or his authorized representative, that such violation was not willful but was due to inadvertence, be permitted by the Secretary, or such representative, to settle his liability in the matter by the payment of the fees due for the period covered by such violation and an additional sum, not in excess of $25, to be fixed by the Secretary of Agriculture or his authorized representative. Such payment shall be deposited in the Treasury of the United States in the same manner as regular license fees.

(b) Application; fees; creation of Perishable Agricultural Commodities Act Fund; availability of fund for administrative expenses; budget requirements; notice of increase in annual fee; filing of views and objections to increase

Any person desiring any such license shall make application to the Secretary. The Secretary may by regulation prescribe the information to be contained in such application. Upon the filing of the application, and annually thereafter, the applicant shall pay such fee as the Secretary determines necessary to meet the reasonably anticipated expenses for administering this chapter and sections 491, 493 to 497 of this title, but in no event shall such fee exceed $100. Such fee, when collected, shall be deposited in the Treasury of the United States as a special fund, without fiscal year limitation, to be designated as the "Perishable Agricultural Commodities Act Fund", which shall be available for all expenses necessary to the administration of this chapter and sections 491, 493 to 497 of this title, referred to above: *Provided,* That financial statements prescribed by the Director of the Office of Management and Budget for the last completed fiscal year, and as esti-

mated for the current and ensuing fiscal years, shall be included in the budget as submitted to the Congress annually. The Secretary shall give public notice of any increase to be made in the annual fee prescribed by him hereunder and shall allow a reasonable time prior to the effective date of such increase for interested persons to file their views on or objections to such increase.

(c) Trade names; disapproval by Secretary; suspension of license for use of disapproved name; refusal of license for deceptive, misleading, or confusing name

A licensee may conduct business in more than one trade name or change the name under which business is conducted without requiring an additional or new license. The Secretary may disapprove the use of a trade name if, in his opinion, the use of the trade name by the licensee would be deceptive, misleading, or confusing to the trade, and the Secretary may, after notice and opportunity for a hearing, suspend for a period not to exceed ninety days the license of any licensee who continues to use a trade name which the Secretary has disapproved for use by such licensee. The Secretary may refuse to issue a license to an applicant if he finds that the trade name in which the applicant proposes to do business would be deceptive, misleading, or confusing to the trade if used by such applicant.

(June 10, 1930, ch. 436, § 3, 46 Stat. 533; Aug. 20, 1937, ch. 719, § 5, 50 Stat. 726; June 15, 1950, ch. 254, § 1, 64 Stat. 217; July 30, 1956, ch. 786, § 2(a), 70 Stat. 726; Oct. 1, 1962, Pub. L. 87-725, §§ 3, 4, 76 Stat. 673, 674; Nov. 4, 1969, Pub. L. 91-107, § 3, 83 Stat. 182; 1970 Reorg. Plan No. 2, § 102, eff. July 1, 1970, 35 F.R. 7959, 84 Stat. 2085.)

REFERENCES IN TEXT

The Perishable Agricultural Commodities Act, referred to in subsec. (b), is classified to this chapter.

CODIFICATION

Section was formerly classified to section 553 of this title.

AMENDMENTS

1969—Subsec. (b). Pub. L. 91-107 increased the limitation on fees from $50 to $100.

1962—Subsec. (b). Pub. L. 87-725, § 3, increased the annual fee from a maximum of $25, to such fee as the Secretary determines necessary to meet the expenses of administering this chapter and sections 491, 493 to 497 of this title, but not exceeding $50, directed the Secretary to give public notice of any increase in the annual fee and to allow reasonable time before the effective date of such increase for submission of views on, or objections to, such increase, and eliminated references to the availability of the Perishable Agricultural Commodities Act Fund for administrative expenses of sections 581 to 589 of this title.

Subsec. (c). Pub. L. 87-725, § 4, added subsec. (c).

1956—Subsec. (b). Act July 30, 1956, changed the fee from $15 annually to not more than $25 annually.

1950—Subsec. (b). Act June 15, 1950, increased fee from $10 to $15 annually, provided for its disposition in fund, made fund available for administrative expenses, and provided for financial statements.

1937—Subsec. (a). Act Aug. 20, 1937, added second par.

TRANSFER OF FUNCTIONS

All functions vested by law (including reorganization plan) in the Bureau of the Budget or the Director of the Bureau of the Budget were transferred to the President of the United States by section 101 of 1970 Reorg. Plan No. 2. Section 102 of 1970 Reorg. Plan No. 2 redesignated the Bureau of the Budget as the Office of Management and Budget and the offices of the Director of the Bureau of the Budget, Deputy Director of the Bureau of the Budget, and Assistant Directors of the Bureau of the Budget as Director of the Office of Management and Budget, Deputy Director of the Office of Management and Budget, and Assistant Directors of the Office of Management and Budget, respectively. Section 103 of 1970 Reorg. Plan No. 2 transferred all records, property, personnel, and funds of the Bureau to the Office of Management and Budget. See part I of Reorg. Plan No. 2 of 1970, set out in the Appendix to Title 5, Government Organization and Employees.

CROSS REFERENCES

Delegation of regulatory functions of Secretary of Agriculture, see section 450c of this title.

Exclusive jurisdiction of district courts in actions for recovery of penalties, see section 1355 of Title 28, Judiciary and Judicial Procedure.

Venue of action for penalty, see section 1395 of Title 28.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 499a, 499d, 499h, 499o, 499s of this title.

§ 499d. Issuance of license.

(a) Authority to do business; termination; renewal

Whenever an applicant has paid the prescribed fee the Secretary, except as provided elsewhere in this chapter, shall issue to such applicant a license, which shall entitle the licensee to do business as a commission merchant and/or dealer and/or broker unless and until it is suspended or revoked by the Secretary in accordance with the provisions of this chapter, or is automatically suspended under section 499g(d) of this title, but said license shall automatically terminate on any anniversary date thereof unless the anual [1] fee has been paid: *Provided,* That notice of the necessity of paying the annual fee shall be mailed at least thirty days before the anniversary date: *Provided, further,* That if the annual fee is not paid by the anniversary date the licensee may obtain a renewal of that license at any time within thirty days by paying the fee provided in section 499c(b) of this title, plus $5, which shall be deposited in the Perishable Agricultural Commodities Act fund provided for by section 499c(b) of this title: *And provided further,* That the license of any licensee shall terminate upon said licensee, or in case the licensee is a partnership, any partner, being discharged as a bankrupt.

(b) Refusal of license; grounds

The Secretary shall refuse to issue a license to an applicant if he finds that the applicant, or any person responsibly connected with the applicant, is a person who, or is or was responsibly connected with a person who—

(A) has had his license revoked under the provisions of section 499h of this title within two years prior to the date of the application

[1] So in original. Probably should read "annual."

or whose license is currently under suspension;

(B) within two years prior to the date of application has been found after notice and opportunity for hearing to have committed any flagrant or repeated violation of section 499b of this title, but this provision shall not apply to any case in which the license of the person found to have committed such violation was suspended and the suspension period has expired or is not in effect;

(C) within two years prior to the date of the application, has been found guilty in a Federal court of having violated the provisions of sections 491, 493 to 497 of this title, relating to the prevention of destruction and dumping of farm produce; or

(D) has failed, except in the case of bankruptcy and subject to his right of appeal under section 499g(c) of this title, to pay any reparation order issued against him within two years prior to the date of the application.

(c) Issuance of license upon furnishing bond; issuance after three years without bond; effect of termination of bond; increase or decrease in amount; payment of increase

An applicant ineligible for a license by reason of the provisions of subsection (b) of this section may, upon the expiration of the two-year period applicable to him, be issued a license by the Secretary if such applicant furnishes a surety bond in the form and amount satisfactory to the Secretary as assurance that his business will be conducted in accordance with this chapter and that he will pay all reparation orders which may be issued against him in connection with transactions occurring within four years following the issuance of the license, subject to his right of appeal under section 499g(c) of this title. In the event such applicant does not furnish such a surety bond, the Secretary shall not issue a license to him until three years have elapsed after the date of the applicable order of the Secretary or decision of the court on appeal. If the surety bond so furnished is terminated for any reason without the approval of the Secretary the license shall be automatically canceled as of the date of such termination and no new license shall be issued to such person during the four-year period without a new surety bond covering the remainder of such period. The Secretary, based on changes in the nature and volume of business conducted by a bonded licensee, may require an increase or authorize a reduction in the amount of the bond. A bonded licensee who is notified by the Secretary to provide a bond in an increased amount shall do so within a reasonable time to be specified by the Secretary, and upon failure of the licensee to provide such bond his license shall be automatically suspended until such bond is provided.

(d) Withholding license pending investigation

The Secretary may withhold the issuance of a license to an applicant, for a period not to exceed thirty days pending an investigation, for the purpose of determining (a) whether the applicant is unfit to engage in the business of a commission merchant, dealer, or broker because the applicant, or in case the applicant is a partnership, any general partner, or in case the applicant is a corporation, any officer or holder of more than 10 per centum of the stock, prior to the date of the filing of the application engaged in any practice of the character prohibited by this chapter or was convicted of a felony in any State or Federal court, or (b) whether the application contains any materially false or misleading statement or involves any misrepresentation, concealment, or withholding of facts respecting any violation of the chapter by any officer, agent, or employee of the applicant. If after investigation the Secretary believes that the applicant should be refused a license, the applicant shall be given an opportunity for hearing within sixty days from the date of the application to show cause why the license should not be refused. If after the hearing the Secretary finds that the applicant is unfit to engage in the business of a commission merchant, dealer, or broker because the applicant, or in case the applicant is a partnership, any general partner, or in case the applicant is a corporation, any officer or holder of more than 10 per centum of the stock, prior to the date of the filing of the application engaged in any practice of the character prohibited by this chapter or was convicted of a felony in any State or Federal court, or because the application contains a materially false or misleading statement made by the applicant or by its representative on its behalf, or involves a misrepresentation, concealment, or withholding of facts respecting any violation of the chapter by any officer, agent, or employee, the Secretary may refuse to issue a license to the applicant.

(e) Refusal of license

The Secretary may refuse to issue a license to an applicant if he finds that the applicant, or in case the applicant is a partnership, any general partner, or in case the applicant is a corporation, any officer or holder of more than 10 per centum of the stock, has, within three years prior to the date of the application, been adjudicated or discharged as a bankrupt, or was a general partner of a partnership or officer or holder of more than 10 per centum of the stock of a corporation adjudicated or discharged as a bankrupt, unless the applicant furnishes a bond of such nature and amount as may be determined by the Secretary or other assurance satisfactory to the Secretary that the business of the applicant will be conducted in accordance with this chapter.

(June 10, 1930, ch. 436, § 4, 46 Stat. 533; Apr. 13, 1934, ch. 120, §§ 4–7, 48 Stat. 585, 586; June 19, 1936, ch. 602, § 2, 49 Stat. 1533; Aug. 20, 1937, ch. 719, § 6, 50 Stat. 726; June 15, 1950, ch. 254, § 2, 64 Stat. 218; July 30, 1956, ch. 786, §§ 2(b), 3, 4, 70 Stat. 726; Oct. 1, 1962, Pub. L. 87–725, §§ 5–7, 76 Stat. 674.)

REFERENCES IN TEXT

The Perishable Agricultural Commodities Act, referred to in subsec. (a), is classified to this chapter.

CODIFICATION

Section was formerly classified to section 554 of this title.

AMENDMENTS

1962—Subsec. (a). Pub. L. 87–725, § 5, added the proviso that the license of any licensee shall terminate, if

he, or in case the licensee is a partnership, any partner, is discharged as a bankrupt.

Subsec. (b). Pub. L. 87-725, § 6, amended subsection generally, and among other changes, required refusal of a license upon showing responsible connection by the applicant, or by any person responsibly connected with him, with a person guilty of the specified conduct, without requiring that the applicant was responsible in whole or in part for such conduct, and upon the grounds specified in clause (C) relating to being found guilty in a Federal court of having violated the provisions of sections 491, 493 to 497 of this title, provided that the provisions regarding flagrant or repeated violation of section 499b of this title shall not apply where the license in such case was suspended and the suspension period has expired or is not in effect, and eliminated provisions which, notwithstanding the grounds for refusal specified in the section, permitted the Secretary to issue a license upon the applicant furnishing a bond or other satisfactory assurance that his business would be conducted in accordance with this chapter, and that he would pay reparation orders previously issued against him or which could be issued against him within two years after receiving the license, but such license could not be issued until after the expiration of one year from the revocation or from the finding that the applicant was responsible, for any flagrant or repeated violation of section 499b of this title.

Subsec. (c). Pub. L. 87-725, § 7, substituted provisions which permit a license to be issued to an applicant ineligible under subsec. (b) of this section, upon expiration of the two year period applicable to him, if he furnishes a surety bond as assurance that his business will be conducted in accordance with this chapter and that he will pay all reparation orders issued against him in connection with transactions occurring within four years following issuance of license, subject to appeal under section 499g(c) of this title, or if no bond is given, permit issuance of the license after three years from the applicable order, or decision of the court on appeal, and which provide that if a bond is terminated without the Secretary's approval, the license is automatically canceled and cannot be reissued during the four year period without a new bond, that the Secretary may order an increase or a reduction in the bond, and that a licensee notified to increase the bond must do so in a reasonable time or his license will be suspended until such bond is provided, for provisions which required the Secretary to refuse a license to an applicant, or if the applicant was a partnership, or an association or a corporation, to a partner or officer or any person holding a responsible position therein, respectively, found within two years of being guilty of violating sections 491 to 497 or 499n(b) of this title.

1956—Subsec. (a). Act July 30, 1956, § 2(b), substituted "the fee provided in section 499c(b) of this title, plus $5" for "a fee of $20".

Subsec. (d). Act July 30, 1956, § 3, included within the term "applicant" any general partner of a partnership, and officers or holders of more than 10 per centum of the stock of a corporation, and permitted the Secretary to refuse to issue a license to an applicant who was convicted of a felony in any State or Federal court.

Subsec. (e). Act July 30, 1956, § 4, added subsec. (e).

1950—Subsec. (a). Act June 15, 1950 increased the fee for late registration from $15 to $20, and provided for its disposition in the fund.

1937—Subsec. (a). Act Aug. 20, 1937, added the first and second provisos.

Subsec. (b). Act Aug. 20, 1937, among other changes, added "Such bond shall be in an amount sufficient in the judgment of the Secretary of Agriculture to insure payment of such reparation orders" at the end thereof.

Subsec. (c). Act Aug. 20, 1937 amended subsec. (c) generally.

Subsec. (d). Act Aug. 20, 1937 amended subsec. (d) generally.

1936—Subsec. (b). Act June 19, 1936, among other changes, added "if he finds" after "or (3)" and "or (5)" after "section 499b".

1934—Subsec. (b). Act Apr. 13, 1934, § 4, among other changes, added clauses (3) and (4).

Subsecs. (c) to (e). Act Apr. 13, 1934, §§ 5 to 7, added subsecs. (c) to (e), respectively.

CROSS REFERENCES

Delegation of regulatory functions of Secretary of Agriculture, see section 450c of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 499h of this title.

§ 499e. Liability to persons injured

(a) Amount of damages

If any commission merchant, dealer, or broker violates any provision of section 499b of this title he shall be liable to the person or persons injured thereby for the full amount of damages sustained in consequence of such violation.

(b) Remedies

Such liability may be enforced either (1) by complaint to the Secretary as hereinafter provided, or (2) by suit in any court of competent jurisdiction; but this section shall not in any way abridge or alter the remedies now existing at common law or by statute, and the provisions of this chapter are in addition to such remedies.

(June 10, 1930, ch. 436, § 5, 46 Stat. 534; Aug. 20, 1937, ch. 719, § 7, 50 Stat. 728.)

CODIFICATION

Section was formerly classified to section 555 of this title.

AMENDMENTS

1937—Subsec. (a). Act Aug. 20, 1937, omitted "paragraph (1), (2), (3), or (4) of" after "provisions of".

§ 499f. Complaint and investigation

(a) Petition to Secretary of Agriculture; time of making; contents; service; answer

Any person complaining of any violation of any provision of section 499b of this title by any commission merchant, dealer, or broker may, at any time within nine months after the cause of action accrues, apply to the Secretary by petition, which shall briefly state the facts, whereupon, if, in the opinion of the Secretary, the facts therein contained warrant such action, a copy of the complaint thus made shall be forwarded by the Secretary to the commission merchant, dealer, or broker, who shall be called upon to satisfy the complaint, or to answer it in writing, within a reasonable time to be prescribed by the Secretary.

(b) Complaint to Secretary requesting investigation of violations; by whom made

Any officer or agency of any State or Territory having jurisdiction over commission merchants, dealers, or brokers in such State or Territory and any employee of the United States Department of Agriculture or any interested person may file, in accordance with rules and regulations of the Secretary, a complaint of any violation of any provision of this chapter by any commission merchant, dealer, or broker

and may request an investigation of such complaint by the Secretary.

(c) Service of complaint; hearing

If there appear to be, in the opinion of the Secretary, any reasonable grounds for investigating any complaint made under this section, the Secretary shall investigate such complaint and may, if in his opinion the facts warrant such action, have said complaint served by registered mail or by certified mail or otherwise on the person concerned and afford such person an opportunity for a hearing thereon before a duly authorized examiner of the Secretary in any place in which the said person is engaged in business: *Provided,* That in complaints wherein the amount claimed as damages does not exceed the sum of $3,000, a hearing need not be held and proof in support of the complaint and in support of respondent's answer may be supplied in the form of depositions or verified statements of fact.

(d) Determination by Secretary of violations

After opportunity for hearing on complaints where the damages claimed exceed the sum of $3,000 has been provided or waived and on complaints where damages claimed do not exceed the sum of $3,000 not requiring hearing as provided herein, the Secretary shall determine whether or not the commission merchant, dealer, or broker has violated any provision of section 499b of this title.

(e) Complaints by nonresidents; bond for costs and fees

In case a complaint is made by a nonresident of the United States, the complainant shall be required, before any formal action is taken on his complaint, to furnish a bond in double the amount of the claim conditioned upon the payment of costs, including a reasonable attorney's fee for the respondent if the respondent shall prevail, and any reparation award that may be issued by the Secretary of Agriculture against the complainant on any counter claim by respondent: *Provided,* That the Secretary shall have authority to waive the furnishing of a bond by a complainant who is a resident of a country which permits the filing of a complaint by a resident of the United States without the furnishing of a bond.

(June 10, 1930, ch. 436, § 6, 46 Stat. 534; Apr. 13, 1934, ch. 120, §§ 8–10, 48 Stat. 586, 587; Aug. 20, 1937, ch. 719, §§ 8, 9, 50 Stat. 728; June 11, 1960, Pub. L. 86-507, § 1(4), 74 Stat. 200; Oct. 1, 1962, Pub. L. 87-725, § 8, 76 Stat. 675; Feb. 15, 1972, Pub. L. 92-231, § 1, 86 Stat. 38.)

CODIFICATION

Section was formerly classified to section 556 of this title.

AMENDMENTS

1972—Subsec. (c). Pub. L. 92-231 substituted "$3,000" for "$1,500".

Subsec. (d). Pub. L. 92-231 substituted "$3,000" for "$1,500" wherever appearing.

1962—Subsec. (c). Pub. L. 87-725 substituted "$1,500" for "$500".

Subsec. (d). Pub. L. 87-725 substituted "$1,500" for "$500" wherever appearing.

1960—Subsec. (c). Pub. L. 86-507 inserted "or by certified mail" following "registered mail".

1937—Subsec. (b). Act Aug. 20, 1937, § 8, substituted "section 499b of this title" for this chapter.

Subsec. (e). Act Aug. 20, 1937, § 9, inserted "and any reparation award that may be issued by the Secretary of Agriculture against the complainant on any counter claim by respondent" and the proviso.

1934—Subsec. (c). Act Apr. 13, 1934, § 8, added the proviso.

Subsec. (d). Act Apr. 13, 1934, § 9, substituted "complaints" for "a complaint" after "on" and inserted "where damages claimed do not exceed the sum of $500 not requiring hearing as provided herein" after "complaints".

Subsec. (e). Act Apr. 13, 1934, § 10, among other changes, inserted "formal" before "action".

CROSS REFERENCES

Delegation of regulatory functions of Secretary of Agriculture, see section 450c of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 499g, 499h of this title.

§ 499g. Reparation order

(a) Determination by Secretary of Agriculture of amount of damages; order for payment

If after a hearing on a complaint made by any person under section 499f of this title, or without hearing as provided in subsections (c) and (d) of section 499f of this title, or upon failure of the party complained against to answer a complaint duly served within the time prescribed, or to appear at a hearing after being duly notified, the Secretary determines that the commission merchant, dealer, or broker has violated any provision of section 499b of this title, he shall, unless the offender has already made reparation to the person complaining, determine the amount of damage, if any, to which such person is entitled as a result of such violation and shall make an order directing the offender to pay to such person complaining such amount on or before the date fixed in the order. The Secretary shall order any commission merchant, dealer, or broker who is the losing party to pay the prevailing party, as reparation or additional reparation, reasonable fees and expenses incurred in connection with any such hearing. If, after the respondent has filed his answer to the complaint, it appears therein that the respondent has admitted liability for a portion of the amount claimed in the complaint as damages, the Secretary under such rules and regulations as he shall prescribe, unless the respondent has already made reparation to the person complaining, may issue an order directing the respondent to pay to the complainant the undisputed amount on or before the date fixed in the order, leaving the respondent's liability for the disputed amount for subsequent determination. The remaining disputed amount shall be determined in the same manner and under the same procedure as it would have been determined if no order had been issued by the Secretary with respect to the undisputed sum:

(b) Failure to comply with order of Secretary; suit to enforce liability; order as evidence; costs and fees

If any commission merchant, dealer, or broker does not pay the reparation award within the time specified in the Secretary's order, the complainant, or any person for

whose benefit such order was made, may within three years of the date of the order file in the district court of the United States for the district in which he resides or in which is located the principal place of business of the commission merchant, dealer, or broker, or in any State court having general jurisdiction of the parties, a petition setting forth briefly the causes for which he claims damages and the order of the Secretary in the premises. The orders, writs, and processes of the district courts may in these cases run, be served, and be returnable anywhere in the United States. Such suit in the district court shall proceed in all respects like other civil suits for damages, except that the findings and orders of the Secretary shall be prima-facie evidence of the facts therein stated, and the petitioner shall not be liable for costs in the district court, nor for costs at any subsequent state of the proceedings, unless they accrue upon his appeal. If the petitioner finally prevails, he shall be allowed a reasonable attorney's fee, to be taxed and collected as a part of the costs of the suit;

(c) Appeal from reparation order; proceedings

Either party adversely affected by the entry of a reparation order by the Secretary may, within thirty days from and after the date of such order, appeal therefrom to the district court of the United States for the district in which said hearing was held: *Provided,* That in cases handled without a hearing in accordance with subsections (c) and (d) of section 499f of this title or in which a hearing has been waived by agreement of the parties, appeal shall be to the district court of the United States for the district in which the party complained against is located. Such appeal shall be perfected by the filing with the clerk of said court a notice of appeal, together with a petition in duplicate which shall recite prior proceedings before the Secretary and shall state the grounds upon which the petitioner relies to defeat the right of the adverse party to recover the damages claimed, with proof of service thereof upon the adverse party. Such appeal shall not be effective unless within thirty days from and after the date of the reparation order the appellant also files with the clerk a bond in double the amount of the reparation awarded against the appellant conditioned upon the payment of the judgment entered by the court, plus interest and costs, including a reasonable attorney's fee for the appellee, if the appellee shall prevail. Such bond shall be in the form of cash, negotiable securities having a market value at least equivalent to the amount of bond prescribed, or the undertaking of a surety company on the approved list of sureties issued by the Treasury Department of the United States. The clerk of court shall immediately forward a copy thereof to the Secretary of Agriculture, who shall forthwith prepare, certify, and file in said court a true copy of the Secretary's decision, findings of fact, conclusions, and order in said case, together with copies of the pleadings upon which the case was heard and submitted to the Secretary. Such suit in the district court shall be a trial de novo and shall proceed in all respects like other civil suits for damages, except that the findings of fact and order or orders of the Secretary shall be prima-facie evidence of the facts therein stated. Appellee shall not be liable for costs in said court and if appellee prevails he shall be allowed a reasonable attorney's fee to be taxed and collected as a part of his costs. Such petition and pleadings certified by the Secretary upon which decision was made by him shall upon filing in the district court constitute the pleadings upon which said trial de novo shall proceed subject to any amendment allowed in that court;

(d) Suspension of license for failure to obey reparation order or appeal

Unless the licensee against whom a reparation order has been issued shows to the satisfaction of the Secretary within five days from the expiration of the period allowed for compliance with such order that he has either taken an appeal as herein authorized or has made payment in full as required by such order his license shall be suspended automatically at the expiration of such five-day period until he shows to the satisfaction of the Secretary that he has paid the amount therein specified with interest thereon to date of payment: *Provided,* That if on appeal the appellee prevails or if the appeal is dismissed the automatic suspension of license shall become effective at the expiration of thirty days from the date of the judgment on the appeal, but if the judgment is stayed by a court of competent jurisdiction the suspension shall become effective ten days after the expiration of such stay, unless prior thereto the judgment of the court has been satisfied.

(June 10, 1930, ch. 436, § 7, 46 Stat. 534; Apr. 13, 1934, ch. 120, §§ 11–13, 48 Stat. 587, 588; June 19, 1936, ch. 602, § 3, 49 Stat. 1534; Aug. 20, 1937, ch. 719, § 10, 50 Stat. 728; June 23, 1938, ch. 599, 52 Stat. 953; May 14, 1940, ch. 196, 54 Stat. 214; Oct. 1, 1962, Pub. L. 87–725, §§ 9, 10, 76 Stat. 675; Feb. 15, 1972, Pub. L. 92–231, § 2, 86 Stat. 38.)

CODIFICATION

Section was formerly classified to section 557 of this title.

AMENDMENTS

1972—Subsec. (a). Pub. L. 92–231 directed the Secretary to order commission merchants, dealers, or brokers who are the losing party to pay the prevailing party, as reparation or additional reparation, reasonable fees and expenses incurred in connection with hearings.

1962—Subsec. (c). Pub. L. 87–725, § 9, limited the time for filing the bond to within 30 days from and after the date of the reparation order, and required such bond to be in cash, negotiable securities having a market value of at least equivalent to the amount of bond prescribed or the undertaking of a surety company on the approved list of sureties issued by the Treasury Department.

Subsec. (d). Pub. L. 87–725, § 10, lengthened the period upon the expiration of which the license is suspended from ten to thirty days, and provided that if the judgment is stayed by a court of competent jurisdiction the suspension becomes effective ten days after the expiration of such stay.

1940—Subsec. (c). Act May 14, 1940, inserted proviso in first sentence.

1938—Subsec. (a). Act June 23, 1938, added the last two sentences.

1937—Subsec. (a). Act Aug. 20, 1937, among other changes, added "or without hearing as provided in section 499f of this title, paragraphs (c) and (d), or upon failure of the party complained against to answer a

complaint duly served within the time prescribed, or to appear at a hearing after being duly notified" after "section 499f".

Subsec. (b). Act Aug. 20, 1937, among other changes, substituted "pay the reparation award" for "comply with an order for the payment of money" after "does not".

Subsec. (c). Act Aug. 20, 1937, inserted "together with a bond in double the amount of the reparation award conditioned upon the payment of the judgment entered by the court plus interest and costs, including a reasonable attorney's fee for the appellee, if the appellee shall prevail" after "upon adverse party" and deleted proviso in first sentence and "by registered mail" following "adverse party".

Subsec. (d). Act Aug. 20, 1937, added the proviso.

1936—Subsec. (c). Act June 19, 1936, inserted proviso in first sentence and "by registered mail" following "adverse party".

1934—Subsec. (b). Act Apr. 13, 1934, § 11, added "The orders, writs and processes of the district courts may in these cases run, be served, and be returnable anywhere in the United States" after "in the premises".

Subsecs. (c), (d). Act Apr. 13, 1934, §§ 12, 13, added subsecs. (c) and (d), respectively.

ADMINISTRATIVE ORDERS REVIEW ACT

Court of appeals exclusive jurisdiction respecting final orders of Secretary of Agriculture under this chapter, except orders issued under subsec. (a) of this section, see section 2342 of Title 28, Judiciary and Judicial Procedure.

CROSS REFERENCES

Delegation of regulatory functions of Secretary of Agriculture, see section 450c of this title.

Exclusive jurisdiction of courts of appeals to set aside orders of Secretary of Agriculture under this chapter except those orders issued under subsection (a) of this section, see section 2342 of Title 28, Judiciary and Judicial Procedure.

Review of orders by courts of appeals, see section 2341 et seq. of Title 28.

Venue of proceedings to set aside orders of Secretary of Agriculture under this chapter except subsec. (a) of this section, see section 2343 of Title 28.

FEDERAL RULES OF CIVIL PROCEDURE

Costs, see rules 54, 81, Title 28, Appendix, Judiciary and Judicial Procedure.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 499d, 499h of this title; title 28 section 2342.

§ 499h. Grounds for suspension or revocation of license

(a) Authority of Secretary

Whenever (a) the Secretary determines, as provided in section 499f of this title, that any commission merchant, dealer, or broker has violated any of the provisions of section 499b of this title, or (b) any commission merchant, dealer, or broker has been found guilty in a Federal court of having violated section 499n(b) of this title, the Secretary may publish the facts and circumstances of such violation and/or, by order, suspend the license of such offender for a period not to exceed ninety days, except that, if the violation is flagrant or repeated, the Secretary may, by order, revoke the license of the offender;

(b) Unlawful employment of certain persons; restrictions; bond assuring compliance; approval of employment without bond; change in amount of bond; payment of increased amount; penalties

Except with the approval of the Secretary, no licensee shall employ any person, or any person who is or has been responsibly connected with any person—

(1) whose license has been revoked or is currently suspended by order of the Secretary;

(2) who has been found after notice and opportunity for hearing to have committed any flagrant or repeated violation of section 499b of this title, but this provision shall not apply to any case in which the license of the person found to have committed such violation was suspended and the suspension period has expired or is not in effect; or

(3) against whom there is an unpaid reparation award issued within two years, subject to his right of appeal under section 499g(c) of this title.

The Secretary may approve such employment at any time following nonpayment of a reparation award, or after one year following the revocation or finding of flagrant or repeated violation of section 499b of this title, if the licensee furnishes and maintains a surety bond in form and amount satisfactory to the Secretary as assurance that such licensee's business will be conducted in accordance with this chapter and that the licensee will pay all reparation awards, subject to its right of appeal under section 499g(c) of this title, which may be issued against it in connection with transactions occurring within four years following the approval. The Secretary may approve employment without a surety bond after the expiration of two years from the effective date of the applicable disciplinary order. The Secretary, based on changes in the nature and volume of business conducted by the licensee, may require an increase or authorize a reduction in the amount of the bond. A licensee who is notified by the Secretary to provide a bond in an increased amount shall do so within a reasonable time to be specified by the Secretary, and if the licensee fails to do so the approval of employment shall automatically terminate. The Secretary may, after thirty days notice and an opportunity for a hearing, suspend or revoke the license of any licensee who, after the date given in such notice, continues to employ any person in violation of this section.

(c) Fraud in procurement

If, after a license shall have been issued to an applicant, the Secretary believes that the license was obtained through a false or misleading statement in the application therefor or through a misrepresentation, concealment, or withholding of facts respecting any violation of this chapter by any officer, agent, or employee, he may, after thirty days' notice and an opportunity for a hearing, revoke said license, whereupon no license shall be issued to said applicant or any applicant in which the person responsible for such false or misleading statement or misrepresentation, concealment, or withholding of facts is financially interested, except under the conditions set forth in section 499d(b) of this title.

(d) Injunction

In addition to being subject to the penalties provided by section 499c(a) of this title, any commission merchant, dealer, or broker who engages in or operates such business without a valid and effective license from the Secretary shall be liable to be proceeded against in any court of competent jurisdiction in a suit by the United States for an injunction to restrain such defendant from further continuing so to engage in or operate such business, and, if the court shall find that the defendant is continuing to engage in such business without a valid and effective license, the court shall issue an injunction to restrain such defendant from continuing to engage in or to operate such business without such license.

(June 10, 1930, ch. 436, § 8, 46 Stat. 535; Apr. 13, 1934, ch. 120, § 14, 48 Stat. 588; Aug. 20, 1937, ch. 719, § 11, 50 Stat. 730; July 30, 1956, ch. 786, § 5, 70 Stat. 727; Oct. 1, 1962, Pub. L. 87-725, § 11, 76 Stat. 675.)

CODIFICATION

Section was formerly classified to section 558 of this title.

AMENDMENTS

1962—Subsec. (b). Pub. L. 87-725 amended subsection generally, and among other changes, provided that any licensee hiring any person without the Secretary's approval in violation of this section, after notice and opportunity for hearing, may have his license suspended or revoked, that the restrictions shall apply to persons found, after notice and opportunity for hearing, to have committed any flagrant or repeated violation of section 499b of this title, but not where such violator's license was suspended and the suspension has expired or is not in effect, and shall also apply to persons against whom there is a unpaid reparation award issued within two years, subject to appeal under section 499g(c) of this title, permitted the Secretary to approve employment at any time following nonpayment of a reparation award, or after one year following the revocation or finding of flagrant and repeated violation of section 499b of this title, if the licensee furnishes a bond as assurance that his business will be conducted in accordance with this chapter and he will pay all reparation awards issued within four years following approval, subject to appeal under section 499g(c) of this title, or without bond after two years from the effective date of the disciplinary order, authorized the Secretary to increase or decrease the amount of bond, and required licensees notified of an increased bond to provide such in a reasonable time or the approval of employment will terminate.

1956—Subsec. (b). Act July 30, 1956, provided for suspension of licenses, and restricted authority to permit employment to those cases where licenses have been revoked or suspended for failure to pay a reparation award.

1937—Subsec. (a). Act Aug. 20, 1937, among other changes, subdivided subsection into paragraphs (a) and (b) and added "or (b) any commission merchant, dealer, or broker has been found guilty in a Federal court of having violated section 499n(b) of this title" after "section 499b of this title".

Subsec. (b). Act Aug. 20, 1937, amended subsec. (b) generally.

Subsecs. (c), (d). Act Aug. 20, 1937, added subsecs. (c) and (d).

1934—Subsec. (b). Act Apr. 13, 1934, added subsec. (b).

CROSS REFERENCES

Delegation of regulatory functions of Secretary of Agriculture, see section 450c of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 499d of this title.

§ 499i. Accounts, records, and memoranda; duty of licensees to keep; contents; suspension of license for violation of duty

Every commission merchant, dealer, and broker shall keep such accounts, records, and memoranda as fully and correctly disclose all transactions involved in his business, including the true ownership of such business by stockholding or otherwise. If such accounts, records, and memoranda are not so kept, the Secretary may publish the facts and circumstances and/or, by order, suspend the license of the offender for a period not to exceed ninety days.

(June 10, 1930, ch. 436, § 9, 46 Stat. 535.)

CODIFICATION

Section was formerly classified to section 559 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 499m of this title.

§ 499j. Orders; effective date; continuance in force; suspension, modification and setting aside; penalty

Any order of the Secretary under this chapter other than an order for the payment of money shall take effect within such reasonable time, not less than ten days, as is prescribed in the order, and shall continue in force until his further order, or for a specified period of time, accordingly as it is prescribed in the order, unless such order is suspended, modified, or set aside by the Secretary or is suspended, modified, or set aside by a court of competent jurisdiction. Any such order of the Secretary, if regularly made, shall be final, unless before the date prescribed for its taking effect application is made to a court of competent jurisdiction by the commission merchant, dealer, or broker against whom such order is directed to have such order set aside or its enforcement, operation, or execution suspended or restrained.

(June 10, 1930, ch. 436, § 10, 46 Stat. 535.)

CODIFICATION

Section was formerly classified to section 560 of this title.

CROSS REFERENCES

Delegation of regulatory functions of Secretary of Agriculture, see section 450c of this title.

Review of orders by courts of appeals, see section 2341 et seq. of Title 28, Judiciary and Judicial Procedure.

§ 499k. Injunctions; application of injunction laws governing orders of Interstate Commerce Commission

For the purposes of this chapter the provisions of all laws relating to the suspending or restraining of the enforcement, operation, or execution, or the setting-aside, in whole or in part, of the orders of the Interstate Commerce Commission are made applicable to orders of the Secretary under this chapter and to any person subject to the provisions of this chapter.

(June 10, 1930, ch. 436, § 11, 46 Stat. 535.)

CODIFICATION

Section was formerly classified to section 561 of this title.

ADMINISTRATIVE ORDERS REVIEW ACT

Court of appeals exclusive jurisdiction respecting final orders of Secretary of Agriculture under this chapter, except orders issued under section 499g(a) of this title, see section 2342 of Title 28, Judiciary and Judicial Procedure.

CROSS REFERENCES

Injunction by courts of appeals restraining orders, see section 2349 of Title 28, Judiciary and Judicial Procedure.

Interstate Commerce Commission orders—

Enforcement and review, see sections 2321 to 2323, 2341 et seq. of Title 28.

Jurisdiction, district courts, see section 1336 of Title 28.

Venue, district courts, see section 1398 of Title 28.

FEDERAL RULES OF CIVIL PROCEDURE

Process and stay of proceedings to enforce judgment, see rules 4 and 62, Title 28, Appendix, Judiciary and Judicial Procedure.

§ 499*l*. Violations; report to Attorney General; proceedings; costs

The Secretary may report any violation of this chapter for which a civil penalty is provided to the Attorney General of the United States, who shall cause appropriate proceedings to be commenced and prosecuted in the proper courts of the United States without delay. The costs and expenses of such proceedings shall be paid out of the appropriation for the expenses of the courts of the United States.

(June 10, 1930, ch. 436, § 12, 46 Stat. 536.)

CODIFICATION

Section was formerly classified to section 562 of this title.

CROSS REFERENCES

Exclusive jurisdiction of district courts of actions to recover penalties, see section 1355 of Title 28, Judiciary and Judicial Procedure.

Venue of action for penalty, see section 1395 of Title 28.

§ 499m. Complaints; procedure, penalties, etc.

(a) Investigation by Secretary of Agriculture; inspection of accounts, records, and memoranda; penalty for refusing inspection

The Secretary or his duly authorized agents shall have the right to inspect such accounts, records, and memoranda of any commission merchant, dealer, or broker as may be material (1) in the investigation of complaints under this chapter, or (2) to the determination of ownership, control, packer, or State, country, or region of origin in connection with commodity inspections, or (3) to ascertain whether section 499i of this title is being complied with, and if any such commission merchant, dealer, or broker refuses to permit such inspection, the Secretary may publish the facts and circumstances and/or, by order, suspend the license of the offender until permission to make such inspection is given. The Secretary or his duly authorized agents shall have the right to inspect any lot of any perishable agricultural commodity covered by this chapter, and if any commission merchant, dealer, or broker having ownership of or control over such lot fails or refuses to authorize or allow such inspection, the Secretary may, after thirty days' notice and an opportunity for a hearing, publish the facts and circumstances and/or, by order, suspend the license of the offender for a period not to exceed ninety days.

(b) Hearings; subpoenas; oaths; witnesses; evidence

The Secretary, or any officer or employee designated by him for such purpose, may hold hearings, sign and issue subpoenas, administer oaths, examine witnesses, receive evidence, and require by subpoena the attendance and testimony of witnesses and the production of such accounts, records, and memoranda as may be material for the determination of any complaint under this chapter.

(c) Disobedience to subpoenas; remedy; contempt

In case of disobedience to a subpoena, the Secretary or any of his examiners may invoke the aid of any court of the United States in requiring the attendance and testimony of witnesses and the production of accounts, records, and memoranda. Any district court of the United States within the jurisdiction of which any hearing is carried on may, in case of contumacy or refusal to obey a subpoena issued to any person, issue an order requiring the person to appear before the Secretary or his examiner or to produce accounts, records, and memoranda if so ordered, or to give evidence touching any matter pertinent to any complaint; and any failure to obey such order of the court shall be punished by the court as a contempt thereof.

(d) Depositions; production of accounts, records and memoranda

The Secretary may order testimony to be taken by deposition in any proceeding or investigation or incident to any complaint pending under this chapter at any stage thereof. Such depositions may be taken before any person designated by the Secretary and having power to administer oaths. Such testimony shall be reduced to writing by the person taking the deposition or under his direction and shall then be subscribed by the deponent. Any person may be compelled to appear and depose and to produce accounts, records, and memoranda in the same manner as witnesses may be compelled to appear and testify and produce accounts, records, and memoranda before the Secretary or any of his examiners.

(e) Fees and mileage of witnesses

Witnesses summoned before the Secretary or any officer or employee designated by him shall be paid the same fees and mileage that are paid witnesses in the courts of the United States, and witnesses whose depositions are taken and the persons taking the same shall severally be entitled to the same fees as are paid for like service in the courts of the United States.

(June 10, 1930, ch. 436, § 13, 46 Stat. 536; July 30, 1956, ch. 786, § 6, 70 Stat. 727; Oct. 15, 1970, Pub. L. 91-452, title II, § 205, 84 Stat. 928.)

CODIFICATION

Section was formerly classified to section 563 of this title.

AMENDMENTS

1970—Subsec. (f). Pub. L. 91-452 struck out subsec. (f) which related to the immunity from prosecution of any natural person compelled to testify or produce evidence, documentary or otherwise, after claiming his privilege against self-incrimination.

1956—Subsec. (a). Act July 30, 1956 permitted the inspection of accounts, records and memoranda to determine ownership, control, packer, or State, country, or region of origin in connection with commodity inspection, and to ascertain whether section 499i of this title is being complied with, and to permit inspection of lots of perishable agricultural commodities.

EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by Pub. L. 91-452 effective on the sixtieth day following the date of enactment of Pub. L. 91-452, which was approved Oct. 15, 1970, see section 260 of Pub. L. 91-452, set out as a note under section 6001 of Title 18, Crimes and Criminal Procedure.

SAVINGS PROVISION

Amendment by Pub. L. 91-452 not to affect any immunity to which any individual is entitled under this section by reason of any testimony given before the sixtieth day following Oct. 15, 1970, see section 260 of Pub. L. 91-452, set out as a note under section 6001 of Title 18, Crimes and Criminal Procedure.

CROSS REFERENCES

Fees of witnesses, see section 1821 of Title 28, Judiciary and Judicial Procedure.

Immunity of witnesses, see section 6001 et seq. of Title 18, Crimes and Criminal Procedure.

FEDERAL RULES OF CIVIL PROCEDURE

Subpoenas, see rule 45, Title 28, Appendix, Judiciary and Judicial Procedure.

§ 499n. Inspection of perishable agricultural commodities

(a) Employment of inspectors; fees and expenses; inspection certificate as evidence

The Secretary is authorized, independently and in cooperation with other branches of the Government, State, or municipal agencies and/or any person, whether operating in one or more jurisdictions, to employ and/or license inspectors to inspect and certify, without regard to the filing of a complaint under this chapter, to any interested person the class, quality, and/or condition of any lot of any perishable agricultural commodity when offered for interstate or foreign shipment or when received at places where the Secretary shall find it practicable to provide such service, under such rules and regulations as he may prescribe, including the payment of such fees and expenses as will be reasonable and as nearly as may be to cover the cost for the service rendered: *Provided,* That fees for inspections made by a licensed inspector, less the percentage thereof which he is allowed by the terms of his contract of employment with the Secretary as compensation for his services, shall be deposited into the Treasury of the United States as miscellaneous receipts; and fees for inspections made by an inspector acting under a cooperative agreement with a State, municipality, or other person shall be disposed of in accordance with the terms of such agreement: *Provided further,* That expenses for travel and subsistence incurred by inspectors shall be paid by the applicant for inspection to the United States Department of Agriculture to be credited to the appropriation for carrying out the purposes of this chapter: *And provided further,* That official inspection certificates for fresh fruits and vegetables issued by the Secretary of Agriculture pursuant to any law shall be received by all officers and all courts of the United States, in all proceedings under this chapter, and in all transactions upon contract markets under Commodities Exchange Act [7 U.S.C. 1 et seq.] as prima facie evidence of the truth of the statements therein contained;

(b) Issuance of fraudulent certificates; penalties

Whoever shall falsely make, issue, alter, forge, or counterfeit, or cause or procure to be falsely made, issued, altered, forged, or counterfeited or willingly aid, cause, procure or assist in, or be a party to the false making, issuing, altering, forging, or counterfeiting of any certificate of inspection issued under authority of this chapter, sections 491, 493 to 497 of this title, or any Act making appropriations for the Department of Agriculture; or shall utter or publish as true or cause to be uttered or published as true any such false, forged, altered, or counterfeited certificate for a fraudulent purpose, shall be guilty of a misdemeanor and upon conviction shall be punished by a fine of not more than $500 or by imprisonment for a period of not more than one year, or both, at the discretion of the court.

(June 10, 1930, ch. 436, § 14, 46 Stat. 537; Apr. 13, 1934, ch. 120, § 15, 48 Stat. 588; Aug. 20, 1937, ch. 719, § 12, 50 Stat. 730.)

REFERENCES IN TEXT

The Commodities Exchange Act, referred to in subsec. (a), is act Sept. 21, 1922, ch. 369, 42 Stat. 998, which is classified generally to chapter 1 (§ 1 et seq.) of this title. For complete classification of this Act to the Code, see Tables volume.

CODIFICATION

Section was formerly classified to section 564 of this title.

AMENDMENTS

1937—Subsec. (a). Act Aug. 20, 1937 designated existing provisions as subsec. (a) and, among other changes inserted "That official inspection certificates for fresh fruits and vegetables issued by the Secretary of Agriculture pursuant to any law shall be received by all officers and all courts of the United States, in all proceedings under this chapter, and in all transactions upon contract markets under Commodities Exchange Act" before "as prima facie" in the third proviso.

Subsec. (b). Act Aug. 20, 1937 added subsec. (b).

1934—Act Apr. 13, 1934 omitted "and in all proceedings under this chapter" after "United States" in the third proviso.

CROSS REFERENCES

Fees of witnesses, see section 1821 of Title 28, Judiciary and Judicial Procedure.

Investigation and certification of condition of agricultural products shipped in interstate commerce, see section 1622 of this title.

Misdemeanor defined, see section 1 of Title 18, Crimes and Criminal Procedure.

FEDERAL RULES OF CIVIL PROCEDURE

Subpoenas, see rule 45, Title 28, Appendix, Judiciary and Judicial Procedure.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 499h of this title; title 42 section 418.

§ 499o. Rules, regulations, and orders; appointment, removal, and compensation of officers and employees; expenditures; authorization of appropriations; abrogation of inconsistent statutes

The Secretary may make such rules, regulations, and orders as may be necessary to carry out the provisions of this chapter, and may cooperate with any department or agency of the Government, any State, Territory, District, or possession, or department, agency, or political subdivision thereof, or any person; and shall have the power to appoint, remove, and fix the compensation of such officers and employees not in conflict with existing law, and make such expenditures for rent outside the District of Columbia, printing, binding, telegrams, telephones, lawbooks, books of reference, publications, furniture, stationery, office equipment, travel, and other supplies and expenses, including reporting services, as shall be necessary to the administration of this chapter in the District of Columbia and elsewhere, from the Perishable Agricultural Commodities Act fund provided for by section 499c(b) of this title and any supplements to such fund, and as may be appropriated for by Congress; and there is authorized to be appropriated, out of any money in the Treasury not otherwise appropriated, such sums as may be necessary for such purposes. This chapter shall not abrogate nor nullify any other statute, whether State or Federal, dealing with the same subjects of this chapter; but it is intended that all such statutes shall remain in full force and effect except insofar only as they are inconsistent herewith or repugnant hereto.

(June 10, 1930, ch. 436, § 15, 46 Stat. 537; June 15, 1950, ch. 254, § 3, 64 Stat. 218.)

REFERENCES IN TEXT

The Perishable Agricultural Commodities Act, referred to in the text, is classified to this chapter.

CODIFICATION

Section was formerly classified to section 565 of this title.

AMENDMENTS

1950—Act June 15, 1950, provided for the payment of administrative costs out of the fund and any supplements thereto as well as by Congressional appropriations.

CROSS REFERENCES

Delegation of regulatory functions of Secretary of Agriculture, see section 450c of this title.

§ 499p. Liability of licensees for acts and omissions of agents

In construing and enforcing the provisions of this chapter, the act, omission, or failure of any agent, officer, or other person acting for or employed by any commission merchant, dealer, or broker, within the scope of his employment or office, shall in every case be deemed the act, omission, or failure of such commission merchant, dealer, or broker as that of such agent, officer, or other person.

(June 10, 1930, ch. 436, § 16, 46 Stat. 538.)

CODIFICATION

Section was formerly classified to section 566 of this title.

§ 499q. Separability of provisions

If any provision of this chapter or the application thereof to any person or circumstances is held invalid, the validity of the remainder of the chapter and of the application of such provision to other persons and circumstances shall not be affected thereby.

(June 10, 1930, ch. 436, § 17, 46 Stat. 538.)

CODIFICATION

Section was formerly classified to section 567 of this title.

§ 499r. Short title

This chapter may be cited as the "Perishable Agricultural Commodities Act, 1930."

(June 10, 1930, ch. 436, § 18, 46 Stat. 538.)

CODIFICATION

Section was formerly classified to section 568 of this title.

CROSS REFERENCES

Delegation of regulatory functions of Secretary of Agriculture, see section 450c of this title.

§ 499s. Depositing appropriations in fund

Any unexpended balances of appropriations for the current fiscal year, and any subsequent appropriations, made to carry out the Acts referred to in section 499c(b) of this title, may be deposited in the Perishable Agricultural Commodities Act fund.

(June 10, 1930, ch. 436, § 19, as added June 15, 1950, ch. 254, § 4, 64 Stat. 218.)

REFERENCES IN TEXT

The Acts referred to in section 499c(b) of this title, referred to in text, are the Perishable Agricultural Commodities Act, 1930, and the Act to prevent the destruction or dumping of farm produce, Act Mar. 3, 1927, which are set out, respectively, as this chapter (§ 499a et seq.) and chapter 20 (§ 491 et seq.) of this title.

CHAPTER 21—TOBACCO STATISTICS

Sec.
501. Collection and publication; facts required; deteriorated tobacco.
502. Standards for classification; returns and blanks.
503. Reports; necessity; by whom made; penalties.
504. Definition of "person."
505. Access to internal-revenue records.
506. Returns under oath; administration.
507. Limitation on use of statistical information.
508. Separability of provisions.

§ 501. Collection and publication; facts required; deteriorated tobacco

The Secretary of Agriculture is authorized and directed to collect and publish statistics of the quantity of leaf tobacco in all forms in the United States and Puerto Rico, owned by or in

the possession of dealers, manufacturers, quasi-manufacturers, growers' cooperative associations, warehousemen, brokers, holders, or owners, other than the original growers of tobacco. The statistics shall show the quantity of tobacco in such detail as to types, groups of grades, and such other subdivisions as to quality, color, and/or grade for particular types, as the Secretary of Agriculture shall deem to be practical and necessary for the purposes of this chapter, shall be summarized as of January 1, April 1, July 1, and October 1 of each year, and an annual report on tobacco statistics shall be issued: *Provided*, That the Secretary of Agriculture shall not be required to collect statistics of leaf tobacco from any manufacturer of tobacco who, in the first three quarters of the preceding calendar year, according to the returns of the Commissioner of Internal Revenue or the record of the Treasurer of Puerto Rico, manufactured less than thirty-five thousand pounds of tobacco, or from any manufacturer of cigars who, during the first three quarters of the preceding calendar year, manufactured less than one hundred and eighty-five thousand cigars, or from any manufacturer of cigarettes who, during the first three quarters of the preceding year, manufactured less than seven hundred and fifty thousand cigarettes: *And provided further*, That the Secretary of Agriculture may omit the collection of statistics from any dealer, manufacturer, growers' cooperative association, warehouseman, broker, holder, or owner who does not own and/or have in stock, in the aggregate, fifty thousand pounds or more of leaf tobacco on the date as of which the reports are made. For the purposes of this chapter, any tobacco which has deteriorated on account of age or other causes to the extent that it is not merchantable or is unsuitable for use in manufacturing tobacco products shall be classified with other nondescript tobacco and reported in the "N" group of the type to which it belongs.

(Jan. 14, 1929, ch. 69, § 1, 45 Stat. 1079; July 14, 1932, ch. 480, § 1, 47 Stat. 662; Aug. 27, 1935, ch. 749, § 1, 49 Stat. 893.)

AMENDMENTS

1935—Act Aug. 27, 1935 inserted words "and Puerto Rico" after words "United States", substituted "seven hundred and fifty thousand cigarettes" for "one million cigarettes" immediately preceding the second proviso and added the second proviso.

1932—Act July 14, 1932 substituted "thirty-five" for "fifty" and "one hundred and eighty-five thousand cigars" and "one million" for "seven hundred and fifty thousand cigarettes".

CHANGE OF NAME

"Porto Rico" was changed to "Puerto Rico" by act May 17, 1932, ch. 190, 47 Stat. 158.

SEPARABILITY OF PROVISIONS

Section 4 of act Aug. 27, 1935, which amended this section and sections 502 and 505 of this title, provided as follows: "If any provision of this act, or the application of such provision to any person or circumstances, is held invalid, the remainder of the act and the application of such provisions to persons or circumstances other than those as to which it is held invalid, shall not be affected thereby."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 503 of this title.

§ 502. Standards for classification; returns and blanks

The Secretary of Agriculture shall establish standards for the classification of leaf tobacco, and he is authorized to demonstrate such standards, to prepare and distribute samples thereof, and to make reasonable charges therefor. He shall specify the types, groups of grades, qualities, colors, and/or grades, which shall be included in the returns required by this chapter. The Secretary of Agriculture shall prepare appropriate blanks upon which the returns shall be made, shall, upon request, furnish copies to persons who are required by this chapter to make returns, and such returns shall show the types, groups of grades, qualities, colors, and/or grades and such other information as the Secretary may require.

(Jan. 14, 1929, ch. 69, § 2, 45 Stat. 1079; Aug. 27, 1935, ch. 749, § 2, 49 Stat. 894.)

AMENDMENTS

1935—Act Aug. 27, 1935 inserted, after words "to make returns", clause "and such returns shall show the types, groups of grades, qualities, colors, and/or grades and such other information as the Secretary may require".

§ 503. Reports; necessity; by whom made; penalties

It shall be the duty of every dealer, manufacturer, quasi-manufacturer, growers' cooperative association, warehouseman, broker, holder, or owner, other than the original grower, except such persons as are excluded by the proviso to section 501 of this title, to furnish within fifteen days after January 1, April 1, July 1, and October 1 of each year, completely and correctly, to the best of his knowledge, a report of the quantity of leaf tobacco on hand, segregated in accordance with the blanks furnished by the Secretary of Agriculture. Any person, firm, association, or corporation required by this chapter to furnish a report, and any officer, agent, or employee thereof who shall refuse or willfully neglect to furnish any of the information required by this chapter, or shall willfully give answers that are false or misleading, shall be guilty of a misdemeanor, and upon conviction thereof shall be fined not less than $300 or more than $1,000, or imprisoned not more than one year, or both.

(Jan. 14, 1929, ch. 69, § 3, 45 Stat. 1080; July 14, 1932, ch. 480, § 2, 47 Stat. 663.)

AMENDMENTS

1932—Act July 14, 1932, made quasi-manufacturers subject to section.

CROSS REFERENCES

Misdemeanor defined, see section 1 of Title 18, Crimes and Criminal Procedure.

§ 504. Definition of "person"

The word "person" as used in this chapter shall be held to embrace also any partnership, corporation, association, or other legal entity.

(Jan. 14, 1929, ch. 69, § 4, 45 Stat. 1080.)

§ 505. Access to internal-revenue records

The Secretary of Agriculture shall have access to the tobacco records of the Commis-

sioner of Internal Revenue and of the several collectors of internal revenue for the purpose of obtaining lists of the persons subject to this chapter and for the purpose of aiding the collection of the information herein required, and the Commissioner of Internal Revenue and the several collectors of internal revenue shall cooperate with the Secretary of Agriculture in effectuating the provisions of this chapter.

(Jan. 14, 1929, ch. 69, § 5, 45 Stat. 1080; Aug. 27, 1935, ch. 749, § 3, 49 Stat. 894.)

AMENDMENTS

1935—Act Aug. 27, 1935, reenacted section without change.

ABOLISHMENT OF OFFICES AND TRANSFER OF FUNCTIONS

The offices of Internal Revenue Collector and Deputy Collector were abolished by 1952 Reorg. Plan No. 1, § 1, eff. Mar. 14, 1952, 17 F.R. 2243, 66 Stat. 823, set out in the Appendix to Title 5, Government Organization and Employees, and by section 2 thereof a new office of district commissioner of internal revenue was established. Section 4 of the Plan transferred all functions, that had been vested by statute in any officer or employee of the Bureau of Internal Revenue since the effective date of 1950 Reorg. Plan No. 26, §§ 1, 2, 15 F.R. 4935, 64 Stat. 1280, 1281, to the Secretary of the Treasury.

All functions of all officers of the Department of the Treasury, and all functions of all agencies and employees of the Department, were transferred, with certain exceptions, to the Secretary of the Treasury, with power vested in him to authorize their performance or the performance of any of his functions, by any of those officers, agencies, and employees, by 1950 Reorg. Plan No. 26, §§ 1, 2, eff. July 31, 1950, 15 F.R. 4935, 64 Stat. 1280, 1281, set out in the Appendix to Title 5, Government Organization and Employees. The Commissioner of Internal Revenue, referred to in this section, is an officer of the Treasury Department.

§ 506. Returns under oath; administration

The returns provided for in this chapter shall be made under oath before a collector or deputy collector of internal revenue, a postmaster, assistant postmaster, or anyone authorized to administer oaths by State or Federal law.

(Jan. 14, 1929, ch. 69, § 6, 45 Stat. 1080.)

ABOLISHMENT OF OFFICES AND TRANSFER OF FUNCTIONS

The offices of Internal Revenue Collector and Deputy Collector were abolished by 1952 Reorg. Plan No. 1, § 1, eff. Mar. 4, 1952, 17 F.R. 2243, 66 Stat. 823, set out in the Appendix to Title 5, Government Organization and Employees, and by section 2 thereof a new office of district commissioner of internal revenue was established. Section 4 of the Plan transferred all functions, that had been vested by statute in any officer or employee of the Bureau of Internal Revenue since the effective date of 1950 Reorg. Plan No. 26, §§ 1, 2, 15 F.R. 4935, 64 Stat. 1280, 1281, to the Secretary of the Treasury.

CROSS REFERENCES

Authorization to administer oaths, see section 7622 of Title 26, Internal Revenue Code.

Notary public authorized to take oath, see section 2903 of Title 5, Government Organization and Employees and section 636 of Title 28, Judiciary and Judicial Procedure.

§ 507. Limitation on use of statistical information

The information furnished under the provisions of this chapter shall be used only for the statistical purposes for which it is supplied. No publication shall be made by the Secretary of Agriculture whereby the data furnished by any particular establishment can be identified, nor shall the Secretary of Agriculture permit anyone other than the sworn employees of the Department of Agriculture to examine the individual reports.

(Jan. 14, 1929, ch. 69, § 7, 45 Stat. 1080.)

§ 508. Separability of provisions

If any provision of this chapter is declared unconstitutional or the applicability thereof to any person or circumstance is held invalid, the validity of the remainder of said sections and the applicability of such provisions to other persons and circumstances shall not be affected thereby.

(Jan. 14, 1929, ch. 69, § 9, 45 Stat. 1080.)

CHAPTER 21A—TOBACCO INSPECTION

Sec.
511. Definitions.
511a. Declaration of purpose.
511b. Official standards for classification; tentative standards; modification.
511c. Demonstration of official standards; samples; cost.
511d. Designation of markets; manner.
511e. Sampling and weighing; cost; disposition of moneys received; expenses; purpose.
511f. Reinspection and appeal inspection; certificate as evidence.
511g. Placing of grade on warehouse tickets, etc.; form.
511h. Publication of information relating to tobacco.
511i. Offenses.
511j. Publication of violations.
511k. Penalty for violations.
511*l*. Act of agent as that of principal.
511m. Regulation; hearings; employees; expenditures; authorization of appropriations.
511n. Hearings; examination of witnesses; refusal to testify or produce evidence.
511o. Separability of provisions.
511p. Delegation of duties by Secretary of Agriculture.
511q. Short title.

§ 511. Definitions

When used in this chapter—

(a) "Person" includes partnerships, associations, and corporations, as well as individuals.

(b) "Secretary" means the Secretary of Agriculture of the United States.

(c) "Inspector" means any person employed, licensed, or authorized by the Secretary to determine and certify the type, grade condition, or other characteristics of tobacco.

(d) "Sampler" means any person employed, licensed, or authorized by the Secretary to select, tag, and seal official samples of tobacco.

(e) "Weigher" means any person employed, licensed, or authorized by the Secretary to weight and certify the weight of tobacco.

(f) "Tobacco" means tobacco in its unmanufactured form.

(g) "Auction market" means a market or place to which tobacco is delivered by the producers thereof, or their agents, for sale at auc-

tion through a warehouseman or commission merchant.

(h) Words in the singular form shall be deemed to import the plural form when necessary.

(i) "Commerce" means commerce between any State, Territory, or possession, or the District of Columbia, and any place outside thereof; or between points within the same State, Territory, or possession, or the District of Columbia, but through any place outside thereof; or within any Territory or possession, or the District of Columbia. For the purposes of this chapter (but not in any wise limiting the foregoing definition) a transaction in respect to tobacco shall be considered to be in commerce if such tobacco is part of that current of commerce usual in the tobacco industry whereby tobacco or products manufactured therefrom are sent from one State with the expectation that they will end their transit, after purchase, in another, including, in addition to cases within the above general description, all cases where purchase or sale is either for shipment to another State or for manufacture within the State and the shipment outside the State of the products resulting from such manufacture. Tobacco normally in such current of commerce shall not be considered out of such current through resort being had to any means or device intended to remove transactions in respect thereto from the provisions of this chapter. For the purpose of this paragraph the word "State" includes Territory, the District of Columbia, possession of the United States, and foreign nations.

(Aug. 23, 1935, ch. 623, § 1, 49 Stat. 731.)

§ 511a. Declaration of purpose

Transactions in tobacco involving the sale thereof at auction as commonly conducted at auction markets are affected with a public interest; such transactions are carried on by tobacco producers generally and by persons engaged in the business of buying and selling tobacco in commerce; the classification of tobacco according to type, grade, and other characteristics affect the prices received therefor by producers; without uniform standards of classification and inspection the evaluation of tobacco is susceptible to speculation, manipulation, and control, and unreasonable fluctuations in prices and quality determinations occur which are detrimental to producers and persons handling tobacco in commerce; such fluctuations constitute a burden upon commerce and make the use of uniform standards of classification and inspection imperative for the protection of producers and others engaged in commerce and the public interest therein.

(Aug. 23, 1935, ch. 623, § 2, 49 Stat. 731.)

§ 511b. Official standards for classification; tentative standards; modification

The Secretary is authorized to investigate the sorting, handling, conditioning, inspection, and marketing of tobacco from time to time, and to establish standards for tobacco by which its type, grade, size, condition, or other characteristics may be determined, which standards shall be the official standards of the United States, and shall become effective immediately or upon a date specified by the Secretary: *Provided,* That the Secretary may issue tentative standards for tobacco prior to the establishment of official standards therefor, and he may modify any standards established under authority of this chapter whenever, in his judgment, such action is advisable.

(Aug. 23, 1935, ch. 623, § 3, 49 Stat. 732.)

CROSS REFERENCES

Delegation of regulatory functions of Secretary of Agriculture, see section 450c of this title.

§ 511c. Demonstration of official standards; samples; cost

The Secretary is authorized to demonstrate the official standards; to prepare and distribute, upon request, samples, illustrations, or sets thereof; and to make reasonable charges therefore: *Provided,* That in no event shall charges be in excess of the cost of said samples, illustrations, and services so rendered.

(Aug. 23, 1935, ch. 623, § 4, 49 Stat. 732.)

§ 511d. Designation of markets; manner

The Secretary is authorized to designate those auction markets where tobacco bought and sold thereon at auction, or the products customarily manufactured therefrom, moves in commerce. Before any market is designated by the Secretary under this section he shall determine by referendum the desire of tobacco growers who sold tobacco at auction on such market during the preceding marketing season. The Secretary may at his discretion hold one referendum for two or more markets or for all markets in a type area. No market or group of markets shall be designated by the Secretary unless two-thirds of the growers voting favor it. The Secretary shall have access to the tobacco records of the Collector of Internal Revenue and of the several collectors of internal revenue for the purpose of obtaining the names and addresses of growers who sold tobacco on any auction market, and the Secretary shall determine from said records the eligibility of such grower to vote in such referendum, and no grower shall be eligible to vote in more than one referendum. After public notice of not less than thirty days that any auction market has been so designated by the Secretary, no tobacco shall be offered for sale at auction on such market until it shall have been inspected and certified by an authorized representative of the Secretary according to the standards established under this chapter, except that the Secretary may temporarily suspend the requirement of inspection and certification at any designated market whenever he finds it impracticable to provide for such inspection and certification because competent inspectors are not obtainable or because the quantity of tobacco available for inspection is insufficient to justify the cost of such service: *Provided,* That, in the event competent inspectors are not available, or for other reasons, the Secretary is unable to provide for such inspection and certification at all auction markets within a type area, he shall first designate those auction markets where the greatest number of growers may be served with the fa-

cilities available to him. No fee or charge shall be imposed or collected for inspection or certification under this section at any designated auction market. Nothing contained in this chapter shall be construed to prevent transactions in tobacco at markets not designated by the Secretary or at designated markets where the Secretary has suspended the requirement of inspection or to authorize the Secretary to close any market.

(Aug. 23, 1935, ch. 623, § 5, 49 Stat. 732.)

ABOLISHMENT OF OFFICES AND TRANSFER OF FUNCTIONS

The offices of Internal Revenue Collector and Deputy Collector were abolished by 1952 Reorg. Plan No. 1, § 1, eff. Mar. 14, 1952, 17 F.R. 2243, 66 Stat. 823, set out in the Appendix to Title 5, Government Organization and Employees, and by section 2 thereof a new office of district commissioner of internal revenue was established. Section 4 of the Plan transferred all functions, that had been vested by statute in any officer or employee of the Bureau of Internal Revenue since the effective date of 1950 Reorg. Plan No. 26, §§ 1, 2, 15 F.R. 4935, 64 Stat. 1280, 1281, to the Secretary of the Treasury.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 511k of this title.

§ 511e. Sampling and weighing; cost; disposition of moneys received; expenses; purpose

The Secretary, independently or in cooperation with other branches of the Government, State agencies, or persons whether operating in one or more jurisdictions, is authorized to employ and/or license competent persons as samplers to take official samples of tobacco, or as weighers to weigh and certify the weight of tobacco, or as inspectors of tobacco to determine and certify, upon the request of the owner or other financially interested person, the type, grade, weight, condition, and/or such other facts as the Secretary may deem necessary.

The Secretary is authorized to fix and collect such fees or charges in the administration of this section as he may deem reasonable, and the moneys collected, except as provided in this section, shall be deposited in the Treasury of the United States to the credit of miscellaneous receipts. Fees or charges collected under an agreement with a State, municipality, or person, or by an individual licensed to inspect or weight or sample tobacco under this chapter, may be disposed of in accordance with the terms of such agreement or license. Charges for expenses for travel and subsistence incurred by inspectors or weighers or samplers employed by the Secretary when required to be paid by the applicant for service, may be credited to the appropriation, or any other funds authorized in this chapter from which they were paid.

This section is intended merely to provide for the furnishing of services upon request of the owner or other person financially interested in tobacco to be sampled, inspected, or weighed and shall not be construed otherwise.

(Aug. 23, 1935, ch. 623, § 6, 49 Stat. 732.)

§ 511f. Reinspection and appeal inspection; certificate as evidence

The Secretary shall provide for such reinspection or appeal inspection of tobacco as he may deem necessary for the confirmation or reversal of certificates issued under this chapter. Each inspection certificate issued under this chapter, unless invalidated or superseded in accordance with the regulations of the Secretary, shall be received in all courts and by all officers and employees of the United States as prima facie evidence of the truth of the statements therein contained.

(Aug. 23, 1935, ch. 623, § 7, 49 Stat. 733.)

§ 511g. Placing of grade on warehouse tickets, etc.; form

Warehousemen shall provide space on warehouse tickets or other tags or labels used by them for showing the grade of the lot covered thereby as determined by an authorized tobacco inspector under this chapter. The Secretary may prescribe, by regulation, the form in which such certification of grade shall be shown, and may require that a copy of such warehouse ticket, tag, or label shall be furnished to the Secretary.

(Aug. 23, 1935, ch. 623, § 8, 49 Stat. 733.)

§ 511h. Publication of information relating to tobacco

The Secretary is authorized to collect, publish, and distribute, by telegraph, mail, or otherwise without cost to the grower, timely information on the market supply and demand, location, disposition, quality, condition, and market prices for tobacco.

(Aug. 23, 1935, ch. 623, § 9, 49 Stat. 733.)

§ 511i. Offenses

It shall be unlawful—

(a) For any person to use the words "United States", "Government", or "Federal" or any abbreviation thereof, in, or in connection with, any statement relating to the grade of tobacco when such grade is not, in fact, one of the grades for tobacco according to the standards of the United States.

(b) For any person falsely to make, issue, alter, forge, or counterfeit, or aid, cause, procure, or assist in or be a party to the false making, issuing, altering, forging, or counterfeiting of any certificate, stamp, tag, seal, label, or other writing purporting to be issued or authorized under this chapter.

(c) For any person, not an authorized inspector under this chapter, to issue a certificate or report stating the type, grade, size, or condition of any lot of tobacco to be in accordance with the standards of the United States therefor which is of such color, size, arrangement, or wording as to be mistaken for a certificate issued under this chapter, unless such certificate states in prominent letters in its heading that it is not issued under authority of the United States.

(d) For any person employed, designated, or licensed by the Secretary as an inspector, sampler, or weigher of tobacco under this chapter knowingly to inspect, sample, or weigh improperly, or to issue any false certificate under this

chapter, or to accept money or other consideration, directly or indirectly, for any neglect or improper performance of duty as an inspector, sampler or weigher.

(e) For any person improperly to influence or to attempt improperly to influence or forcibly to assault, resist, impede, or interfere with any inspector, sampler, weigher, or other person employed, designated, or licensed by the Secretary in the execution of his duties under this chapter: *Provided, however,* That nothing herein shall operate to prevent the owner of tobacco from appealing or protesting, in accordance with regulations of the Secretary, the grade certified for his tobacco.

(f) For any person falsely to represent or otherwise indicate that he is authorized by the Secretary to inspect, sample, or weigh tobacco under this chapter.

(g) For any person to substitute, or attempt to substitute, following inspection or sampling or weighing under this chapter, other tobacco for tobacco actually inspected or sampled or weighed, or in the case of tobacco inspected in auction warehouses for any person not so authorized by the Secretary to remove any certificate of grade from any lot of tobacco prior to the sale of such lot.

(h) For any person falsely to represent that tobacco has been inspected, sampled, or weighed under this chapter; or knowingly to have made any false representation concerning tobacco inspected under this chapter; or knowing that tobacco is to be offered for inspection or sampling under this chapter to load, pack, or arrange such tobacco in such manner as knowingly to conceal foreign matter or tobacco of inferior grade, quality, or condition; or for any person knowing that tobacco has been so loaded, packed, or arranged, to offer it for inspection or sampling without disclosing such knowledge to the inspector or sampler before inspection or sampling.

(i) For any person willfully to alter an official sample of tobacco by removing or plucking leaves or otherwise, or for any person knowing that an official sample of tobacco has been so altered, thereafter to represent such sample as an official sample.

(Aug. 23, 1935, ch. 623, § 10, 49 Stat. 733.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 511k of this title.

§ 511j. Publication of violations

The Secretary is authorized to publish the facts regarding any violation of this chapter.

(Aug. 23, 1935, ch. 623, § 11, 49 Stat. 734.)

§ 511k. Penalty for violations

Any person violating any provision of sections 511d and 511i of this title shall be guilty of a misdemeanor and upon conviction thereof shall be fined not more than $1,000, or imprisoned not more than one year, or both.

(Aug. 23, 1935, ch. 623, § 12, 49 Stat. 734.)

CROSS REFERENCES

Misdemeanor defined, see section 1 of Title 18, Crimes and Criminal Procedure.

§ 511*l*. Act of agent as that of principal

In construing and enforcing the provisions of this chapter; [1] the act; [1] omission, or failure of any agent, officer, or other person acting for or employed by an association, partnership, corporation, or firm, within the scope of his employment or office, shall be deemed to be the act, omission, or failure of the association, partnership, corporation, or firm, as well as that of the person.

(Aug. 23, 1935, ch. 623, § 13, 49 Stat. 734.)

§ 511m. Regulation; hearings; employees; expenditures; authorization of appropriations

The Secretary is authorized to make such rules and regulations and hold such hearings as he may deem necessary to effectuate the purposes of this chapter and may cooperate with any other Department or agency of the Government; any State, territory, district, or possession, or department, agency, or political subdivision thereof; purchasing and consuming organizations, boards of trade, chambers of commerce, or other associations of business men or trade organizations; or any person, whether operating in one or more jurisdictions in carrying on the work herein authorized; and he shall have the power to appoint, suspend, remove, and fix the compensation of all officers, employees, and licensees not in conflict with existing law, except that inspectors and supervisors employed thereunder on a seasonal basis and working for periods of six months or less during any twelve-month period may be appointed without reference to the provisions of chapter 51 and subchapter III of chapter 53 of title 5. The Secretary is authorized to make such expenditures for rent outside of the District of Columbia, printing, binding, telegrams, telephones, books of reference, publications, furniture, stationery, office and laboratory equipment, travel, tobacco for use in preparing and demonstrating standards, and other supplies and expenses, including reporting services, as shall be necessary to the administration of this chapter in the District of Columbia and elsewhere, and as may be appropriated for by Congress; and there is authorized to be appropriated, out of any money in the Treasury not otherwise appropriated, such sums as may be necessary for administering this chapter.

(Aug. 23, 1935, ch. 623, § 14, 49 Stat. 734; Oct. 28, 1949, ch. 782, title II, § 202(28), title XI, § 1106(a), 63 Stat. 956, 972.)

CODIFICATION

"Chapter 51 and subchapter III of chapter 53 of title 5" was substituted for "the Classification Act of 1949" on authority of section 7(b) of Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 631, section 1 of which enacted Title 5, Government Organization and Employees.

AMENDMENT

1949—Act Oct. 28, 1949, substituted "Classification Act of 1949" for "Classification Act of 1923".

REPEALS

Act Oct. 28, 1949, ch. 782, §§ 202(28), 1106(a), 63 Stat. 956, 972, set out in the credit of this section, was re-

[1] So in original. Probably should be commas instead of semicolons.

pealed (subject to a savings clause) by Pub. L. 89-554, Sept. 6, 1966, § 8, 80 Stat. 632, 655.

§ 511n. Hearings; examination of witnesses; refusal to testify or produce evidence

In carrying on the work authorized in this chapter, the Secretary, or any officer or employee designated by him for such purpose, shall have power to hold hearings, administer oaths, sign and issue subpenas, examine witnesses, and require the production of books, records, accounts, memoranda, and papers. Upon refusal by any person to appear, testify, or produce books, records, accounts, memoranda, and papers in response to a subpena, the proper United States district court shall have power to compel obedience thereto.

(Aug. 23, 1935, ch. 623, § 15, 49 Stat. 735.)

FEDERAL RULES OF CIVIL PROCEDURE

Subpena, see rule 45, Title 28, Appendix, Judiciary and Judicial Procedure.

§ 511o. Separability of provisions

If any provision of this chapter or the application thereof to any person or circumstance is held invalid, the validity of the remainder of the chapter and of the application of such provision to other persons and circumstances shall not be affected thereby.

(Aug. 23, 1935, ch. 623, § 16, 49 Stat. 735.)

§ 511p. Delegation of duties by Secretary of Agriculture

Any duties devolving upon the Secretary of Agriculture by virtue of the provisions of this chapter may with like force and effect be executed by such officer or officers, agent or agents, of the Department of Agriculture as the Secretary may designate for the purpose.

(Aug. 23, 1935, ch. 623, § 17, 49 Stat. 735.)

CROSS REFERENCES

Delegation of regulatory functions of Secretary of Agriculture, see section 450c of this title.

§ 511q. Short title

This chapter may be cited as "The Tobacco Inspection Act."

(Aug. 23, 1935, ch. 623, § 18, 49 Stat. 735.)

CHAPTER 21B—TOBACCO CONTROL

Sec.

515. Consent of Congress to production compacts between States; uniformity; withdrawal of consent; limitation on consent.
515a. Definitions.
515b. Advancement of funds to compacting States; repayment.
515c. Designation of persons to deal with compacting States.
515d. Loans to associations of tobacco producers.
515e. Availability of Department of Agriculture records and facilities to compacting States.
515f. Authorization of appropriations; disposition of repayments of loans.
515g. Agencies to which funds available.
515h. Effect of compacts between States producing cigar tobacco on Puerto Rican commerce.
(a) Determination of world consumption; "crop year."
(b) Determination of marketing quota for Puerto Rico.
(c) Establishment of marketing quota for each Puerto Rican farm.
(d) Uniform adjustment of marketing quotas.
(e) Issuance of marketing certificates.
(f) Payments for production deficits due to adverse conditions.
(g) Prohibition of sale, etc., without certificate.
515i. Disposition of receipts under section 515h.
515j. Separability of provisions.
515k. Rules and regulations.
516. Exportation of seeds or plants; permits.
517. Penalty for violations.

§ 515. Consent of Congress to production compacts between States; uniformity; withdrawal of consent; limitation on consent

The Congress of the United States of America consents that any of the States in which tobacco is produced may negotiate a compact or compacts for the purpose of regulating and controlling the production of, or commerce in, any one or more kinds of tobacco therein: *Provided*, That all State acts authorizing such compact or compacts shall be essentially uniform and in no way conflicting: *Provided further*, That any compact, compacts, agreement, or agreements negotiated and agreed upon by the States referred to in the Act of the General Assembly of Virginia, approved March 13, 1936 (known as the Tobacco Control Act) (Va. Code 1936, § 1399), or by any other State or States producing any type or types of tobacco referred to in said Act, which is in conformity with said Act and relating to the type or types of tobacco specifically referred to in said Act, shall become effective to the extent and in the manner provided for in said Act without further consent or ratification on the part of the Congress of the United States of America: *Provided, however*, That nothing herein contained shall be construed as preventing the Congress of the United States of America from withdrawing its consent after April 25, 1936, to any compact or agreement entered into pursuant to this chapter: *Provided further*, That nothing in said sections shall be construed to grant the consent of Congress to negotiate any compact for regulating or controlling the production of, or commerce in, tobacco for the purpose of fixing the price thereof, or to create or perpetuate monopoly, or to promote regimentation, but such consent shall be limited to compacts for the regulation and control of production of, or commerce in, tobacco in order thereby to enable growers to receive a fair price for such tobacco.

(Apr. 25, 1936, ch. 249, § 1, 49 Stat. 1239.)

SHORT TITLE

The Act of Apr. 25, 1936, which is classified to this chapter, is popularly known as the "Tobacco Control Act".

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 515a, 515b, 515d of this title.

§ 515a. Definitions

As used in this chapter, unless otherwise stated or unless the context or subject matter clearly indicates otherwise—

"Person" means any individual, partnership, joint-stock company, corporation, or association.

"State Act" means any Act of a State legislature authorizing a compact or compacts pursuant to the consent given in section 515 of this title.

"Commission" means the tobacco commission created by any State Act.

"Secretary" means the Secretary of Agriculture of the United States.

"Kind of tobacco" means one or more types of tobacco as classified in Service and Regulatory Announcement Numbered 118 of the Bureau of Agricultural Economics of the United States Department of Agriculture as listed below according to the name or names by which known:

Types 11, 12, 13, and 14, known as flue-cured tobacco.

Type 31, known as Burley tobacco.

Types 21, 22, 23, 24, 35, 36, and 37, known as fire- cured and dark air-cured tobacco.

Types 41, 42, 43, 44, 45, and 46, known as cigar- filler tobacco.

Types 51, 52, 53, 54, and 65, known as cigar-binder tobacco.

Types 61 and 62, known as cigar-wrapper tobacco.

"Association" means any association of tobacco producers or other persons engaged in the tobacco industry, or both, formed under the laws of any State for the purpose of stabilizing the marketing of tobacco and providing crop protection to producers of tobacco in any State or States.

(Apr. 25, 1936, ch. 249, § 2, 49 Stat. 1240.)

TRANSFER OF FUNCTIONS

The functions of the Bureau of Agricultural Economics of the United States Department of Agriculture were transferred to other units of the Department under Secretary's memorandum 1320, Supplement 4, dated Nov. 2, 1953.

§ 515b. Advancement of funds to compacting States; repayment

The Secretary is authorized to make advances from time to time, from the funds provided in section 515f of this title, to the tobacco commission established by the State act of each State which enters into a compact or compacts under the consent given by section 515 of this title in such amounts as the Secretary shall determine to be required for the payment of administrative expenses incurred by such commission, and under such terms and conditions with respect to the expenditure thereof as the Secretary shall stipulate: *Provided,* That each State act creating such commission shall provide for the repayment to the Secretary of such advances from any funds received by the commission from the sale of marketing certificates with respect to tobacco, prior to the use of such funds for any other purpose.

(Apr. 25, 1936, ch. 249, § 3, 49 Stat. 1240.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 515f of this title.

§ 515c. Designation of persons to deal with compacting States

The Secretary shall upon the request of the Commission of any compacting State, designate such tobacco producers or other persons engaged in the tobacco industry and such officials of the United States Department of Agriculture as he deems advisable to meet with the tobacco commissions for the different States for the purpose of advising in connection with the administration of any compact or compacts entered into pursuant to this chapter.

(Apr. 25, 1936, ch. 249, § 4, 49 Stat. 1240.)

§ 515d. Loans to associations of tobacco producers

The Secretary, from the funds provided in section 515f of this title, is authorized to make loans for administrative purposes, upon terms and conditions stipulated by him, to such association of tobacco producers as may operate with respect to the 1936 crop in the Georgia Tobacco Belt, in a manner similar to that embodied in State acts providing for compacts under the consent given in section 515 of this title.

(Apr. 25, 1936, ch. 249, § 5, 49 Stat. 1240.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 515e, 515f of this title.

§ 515e. Availability of Department of Agriculture records and facilities to compacting States

The Secretary is authorized, upon the request of the commission of any compacting State, or at the request of any association referred to in section 515d of this title, to make available to the commission of any State or to any such association such records and information, whether published or unpublished, and such facilities of the United States Department of Agriculture as the Secretary deems appropriate in aiding such commission or association.

(Apr. 25, 1936, ch. 249, § 6, 49 Stat. 1241.)

§ 515f. Authorization of appropriations; disposition of repayments of loans

(a) For the purpose of administering this chapter there is authorized to be appropriated to the Secretary of Agriculture the sum of $300,000, or so much thereof as may be necessary for that purpose.

(b) Any advances or loans which are repaid to the Secretary by any commission or association pursuant to sections 515b and 515d of this title shall revert to the general fund of the Treasury of the United States.

(Apr. 25, 1936, ch. 249, § 7, 49 Stat. 1241.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 515b, 515d of this title.

§ 515g. Agencies to which funds available

All funds available for carrying out this chapter shall be available for allotment to the bu-

reaus and offices of the Department of Agriculture and for transfer to such other agencies of the Federal or State Governments as the Secretary may request to cooperate or assist in carrying out this chapter.

(Apr. 25, 1936, ch. 249, § 8, 49 Stat. 1241.)

§ 515h. Effect of compacts between States producing cigar tobacco on Puerto Rican commerce

If, pursuant to this chapter, any compact entered into among three or more of the States of Pennsylvania, Ohio, Wisconsin, Massachusetts, Florida, and Connecticut, becomes effective, or if any association or associations are formed, the membership of which includes at least two-thirds of the producers of cigar-filler tobacco and cigar-binder tobacco in three or more of said States, commerce in cigar-filler tobacco produced in Puerto Rico shall be regulated during the period in which any such compact remains effective or such associations continue to operate, as follows:

(a) Determination of world consumption; "crop year"

The Secretary shall determine for each crop year, by calculations from available statistics of the United States Department of Agriculture, the quantity of cigar-filler tobacco produced in the continental United States and Puerto Rico which is likely to be consumed in all countries of the world during such crop year, increased or decreased, as the case may be, by the amount by which the world stocks of cigar-filler tobacco (produced in the continental United States and Puerto Rico) at the beginning of such crop year are less than or greater than the normal stocks of such cigar-filler tobacco, as determined by the Secretary. For the purposes of this section, the Secretary shall specify as a "crop year" such period of twelve months as he deems will facilitate the administration of this section.

(b) Determination of marketing quota for Puerto Rico

The Secretary shall determine a marketing quota for Puerto Rico for cigar-filler tobacco for each crop year in which the provisions of this section are operative. Such quota shall be that quantity of cigar-filler tobacco which bears the same proportion (subject to such adjustment, which may be cumulative from one crop year to another, not exceeding 5 per centum of said proportion in any one year, as the Secretary determines is necessary to correct for any abnormal conditions of production during any three normal crop years during the last ten years for trends in production during such crop years and for trends in consumption since such crop years) to the total quantity of cigar-filler tobacco produced in the continental United States and Puerto Rico and required for world consumption (as determined pursuant to subsection (a) of this section) as the average production of cigar-filler tobacco in Puerto Rico in such crop years bore to the average of the total production of cigar-filler tobacco in the continental United States and Puerto Rico in such crop years.

(c) Establishment of marketing quota for each Puerto Rican farm

The Secretary shall establish for each farm in Puerto Rico for each crop year a tobacco-marketing quota, giving due consideration to the quantity of cigar-filler tobacco marketed from the crops produced on such farm and by the operator thereof in past years; to the land, labor, and equipment available for production of tobacco on such farm; to the crop-rotation practices on such farm; and to the soil and other physical factors affecting production of tobacco on such farm: *Provided,* That the total of the marketing quotas established for all farms in Puerto Rico for any crop year shall not exceed the marketing quota for Puerto Rico for such crop year.

(d) Uniform adjustment of marketing quotas

The marketing quota established for Puerto Rico and the marketing quotas established for farms in Puerto Rico for any crop year pursuant to subsections (b) and (c) of this section shall be subject to such uniform adjustment during the crop year, not exceeding 10 per centum of said quotas, as the Secretary shall determine to be necessary to establish and maintain normal world stocks of cigar-filler tobacco produced in the continental United States and Puerto Rico and otherwise to effectuate the purposes of this chapter.

(e) Issuance of marketing certificates

The Secretary shall, under such terms and conditions and in accordance with such methods as may be established in regulations prescribed by him, issue, to buyers or handlers of tobacco from any farm in Puerto Rico, marketing certificates for an amount of tobacco equal to the marketing quota established for such farm, and, for any tobacco marketed in excess of such quota for such farm, sell, to the buyer or handlers of such excess tobacco, marketing certificates for a charge equal to one-third of the current market value of such tobacco, and the Secretary may require the buyer or handler of such excess tobacco to deduct the charge for marketing certificates from the price or proceeds of or advances on such tobacco.

(f) Payments for production deficits due to adverse conditions

From the proceeds received from the sale of marketing certificates pursuant to subsection (e) of this section, the Secretary shall make payments to the producers of tobacco on farms in Puerto Rico from which the sales of tobacco, because of weather or diseases or loss by fire affecting the tobacco crops thereon adversely during any crop year, are less than the marketing quotas for such farms for such crop year. Such payments shall be at a rate per pound of such deficit as shall be determined by dividing the funds remaining after deduction of such amount as the Secretary estimates to be necessary for the payment of administrative expenses incurred in administering the provisions of this section by the total number of pounds by which the sales of tobacco from all such farms fall below the marketing quotas for such farms.

(g) Prohibition of sale, etc., without certificate

The sale, marketing, purchase, or transportation of any cigar-filler tobacco produced, sold, or marketed in Puerto Rico during any period of time when this section shall be in effect is prohibited unless a marketing certificate has

been issued for such tobacco by the Secretary pursuant to the provisions of subsection (e) of this section.

(Apr. 25, 1936, ch. 249, § 9, 49 Stat. 1241.)

CROSS REFERENCES

Delegation of regulatory functions of Secretary of Agriculture, see section 450c of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 515i of this title.

§ 515i. Disposition of receipts under section 515h

Any receipts by the Secretary under section 515h of this title shall be held in a separate fund and used by the Secretary for the purpose of paying administrative expenses and expenditures incurred or made in connection with said section.

(Apr. 25, 1936, ch. 249, § 10, 49 Stat. 1242.)

§ 515j. Separability of provisions

If any provision of this chapter, or the application thereof to any person or circumstance, shall be held invalid, the validity of the remainder of the chapter and the application of such provision to other persons or circumstances shall not be affected thereby.

(Apr. 25, 1936, ch. 249, § 11, 49 Stat. 1242.)

§ 515k. Rules and regulations

The Secretary shall prescribe such rules and regulations as he may deem necessary to carry out the provisions of this chapter.

(Apr. 25, 1936, ch. 249, § 12, 49 Stat. 1242.)

§ 516. Exportation of seeds or plants; permits

It shall be unlawful to export any tobacco seed and/or live tobacco plants from the United States or any Territory subject to the jurisdiction thereof, to any foreign country, port, or place, unless such exportation and/or transportation is in pursuance of a written permit granted by the Secretary of Agriculture. Such permit shall be granted by the Secretary only upon application therefor and after proof satisfactory to him that such seed or plants are to be used for experimental purposes only.

(June 5, 1940, ch. 232, § 1, 54 Stat. 231.)

CODIFICATION

Section was not enacted as part of the Tobacco Control Act, which comprises this chapter.

APPROVAL OF PRESIDENT

Act June 5, 1940, was received by the President May 23, 1940, and became law on June 5 under art. I, § 7, cl. 2, of the Constitution upon his failure to return it to Congress within 10 days, Sundays excepted.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 517 of this title.

§ 517. Penalty for violations

Any persons violating any of the provisions of section 516 of this title shall be guilty of a misdemeanor and shall be punished by a fine of not more than $5,000 or by imprisonment for not more than one year, or by both such fine and imprisonment.

(June 5, 1940, ch. 232, § 2, 54 Stat. 231.)

CODIFICATION

Section was not enacted as part of the Tobacco Control Act, which comprises this chapter.

EFFECTIVE DATE

Section effective June 5, 1940, see note set out under section 516 of this title.

CROSS REFERENCES

Misdemeanor defined, see section 1 of Title 18, Crimes and Criminal Procedure.

CHAPTER 22—AGRICULTURAL MARKETING

§§ 521 to 535. Omitted or transferred

CODIFICATION

Sections 521 and 522 were transferred to section 1141 and former section 1141a of Title 12, Banks and Banking, respectively.

Section 523, act June 15, 1929, ch. 24, § 3, 46 Stat. 12, related to the designation of agricultural commodities and the establishment of advisory commodity committees, and is omitted.

Sections 524 to 529 were transferred to sections 1141b to 1141f and former section 1141g of Title 12, Banks and Banking, respectively.

Section 530, act June 15, 1929, ch. 24, § 10, 46 Stat. 16, related to clearing house associations, and is omitted.

Section 531, act June 15, 1929, ch. 24, § 11, 46 Stat. 17, related to insurance against loss through price decline, and is omitted.

Section 532, act June 15, 1929, ch. 24, § 12, 46 Stat. 17, related to the appropriation for administrative expenses, and is omitted.

Sections 533 to 535 were transferred to sections 1141h to 1141j of Title 12, Banks and Banking, respectively.

CHAPTER 23—FOREIGN AGRICULTURAL SERVICE

§§ 541 to 545. Repealed. Aug. 13, 1946, ch. 957, title XI, § 1131(56), 60 Stat. 1039

Sections 541 to 545, act June 5, 1930, ch. 399, 46 Stat. 497 to 499, related to the Foreign Agricultural Service.

EFFECTIVE DATE OF REPEAL

Repeal of sections was made effective three months following Aug. 13, 1946, by section 1141 of act Aug. 13, 1946, ch. 957, title XI, 60 Stat. 1040.

CHAPTER 24—PERISHABLE AGRICULTURAL COMMODITIES

§§ 551 to 568. Transferred

CODIFICATION

Sections 551 to 568 were transferred to sections 499a to 499r of this title, respectively.

CHAPTER 25—EXPORT STANDARDS FOR APPLES AND PEARS

Sec.

581. Standards of export; establishment; shipping without certificate forbidden; hearings.
582. Notice of establishment of standards; shipments under contracts made before adoption of standards.
583. Foreign standards; certification of compliance.
584. Shipments of less than carload lots; exemptions.
585. Fees for inspection and certification; certificates as prima facie evidence.
586. Refusal of certificates for violations of laws; penalties for violations.

Sec.
587. Rules and regulations; cooperation with other agencies; compensation of officers and employees; effect on other laws.
588. Separability of provisions.
589. Definitions.
590. Authorization of appropriations.

§ 581. Standards of export; establishment; shipping without certificate forbidden; hearings

It shall be unlawful for any person to ship or offer for shipment or for any carrier, or any steamship company, or any person to transport or receive for transportation to any foreign destination, except as provided in this chapter, any apples and/or pears in packages which are not accompanied by a certificate issued under authority of the Secretary of Agriculture showing that such apples or pears are of a Federal or State grade which meets the minimum of quality established by the Secretary for shipment in export. The Secretary is authorized to prescribe, by regulations, the requirements, other than those of grade, which the fruit must meet before certificates are issued. The Secretary shall provide opportunity, by public hearing or otherwise, for interested persons to examine and make recommendation with respect to any standard of export proposed to be established or designated, or regulation prescribed, by the Secretary for the purposes of this chapter.

(June 10, 1933, ch. 59, § 1, 48 Stat. 123.)

§ 582. Notice of establishment of standards; shipments under contracts made before adoption of standards

The Secretary shall give reasonable notice through one or more trade papers of the effective date of standards of export established or designated by him under this chapter: *Provided*, That any apples or pears may be certified and shipped for export in fulfillment of any contract made within six months prior to the date of such shipment if the terms of such contract were in accordance with the grades and regulations of the Secretary in effect at the time the contract was made.

(June 10, 1933, ch. 59, § 2, 48 Stat. 123.)

§ 583. Foreign standards; certification of compliance

Where the government of the country to which the shipment is to be made has standards or requirements as to condition of apples or pears, the Secretary may in addition to inspection and certification for compliance with the standards established or designated hereunder inspect and certify for determination as to compliance with the standards or requirements of such foreign government and may provide for special certificates in such cases.

(June 10, 1933, ch. 59, § 3, 48 Stat. 124.)

§ 584. Shipments of less than carload lots; exemptions

Apples or pears in less than carload lots as defined by the Secretary may, in his discretion, be shipped to any foreign country without complying with the provisions of this chapter.

(June 10, 1933, ch. 59, § 4, 48 Stat. 124.)

§ 585. Fees for inspection and certification; certificates as prima facie evidence

For inspecting and certifying the grade, quality, and/or condition of apples and/or pears, the Secretary shall cause to be collected a reasonable fee which shall as nearly as may be cover the cost of the service rendered: *Provided*, That when cooperative arrangements satisfactory to the Secretary, or his designated representative, for carrying out the purposes of this chapter cannot be made the fees collected hereunder in such cases shall be available until expended to defray the cost of the service rendered, and in such cases the limitations on the amounts expended for the purchase and maintenance of motor-propelled passenger-carrying vehicles shall not be applicable: *Provided further*, That certificates issued by the authorized agents of the United States Department of Agriculture shall be received in all courts of the United States as prima facie evidence of the truth of the statements therein contained.

(June 10, 1933, ch. 59, § 5, 48 Stat. 124.)

TRANSFER OF FUNCTIONS

All functions of all officers, agencies, and employees of the Department of Agriculture were transferred, with certain exceptions, to the Secretary of Agriculture by 1953 Reorg. Plan No. 2, § 1, eff. June 4, 1953, 18 F.R. 3219, 67 Stat. 633, set out as a note under section 2201 of this title.

§ 586. Refusal of certificates for violations of laws; penalties for violations

After opportunity for hearing the Secretary is authorized to refuse the issuance of certificates under this chapter for periods not exceeding ninety days to any person who ships or offers for shipment any apples and/or pears in foreign commerce in violation of any of the provisions of this chapter. Any person or any common carrier or any transportation agency knowingly violating any of the provisions of this chapter shall be fined not less than $100 nor more than $10,000 by a court of competent jurisdiction.

(June 10, 1933, ch. 59, § 6, 48 Stat. 124.)

§ 587. Rules and regulations; cooperation with other agencies; compensation of officers and employees; effect on other laws

The Secretary may make such rules, regulations, and orders as may be necessary to carry out the provisions of this chapter, and may cooperate with any department or agency of the Government, any State, Territory, District, or possession, or department, agency, or political subdivision thereof, or any person, whether operating in one or more jurisdictions; and shall have the power to appoint, remove, and fix the compensation of such officers and employees not in conflict with existing law, and make such expenditures for rent outside the District of Columbia, printing, binding, telegrams, telephones, law books, books of reference, publications, furniture, stationery, office equipment, travel, and other supplies and expenses, including reporting services, as shall be necessary to the administration of this chapter in the District of Columbia and elsewhere, and as may be appropriated for by Congress. This chapter

shall not abrogate nor nullify any other statute, whether State or Federal, dealing with the same subjects as this chapter; but it is intended that all such statutes shall remain in full force and effect except insofar as they are inconsistent herewith or repugnant hereto.

(June 10, 1933, ch. 59, § 7, 48 Stat. 124.)

§ 588. Separability of provisions

If any provision of this chapter or the application thereof to any person or circumstances is held invalid, the validity of the remainder of the chapter and of the application of such provision to other persons and circumstances shall not be affected thereby.

(June 10, 1933, ch. 59, § 8, 48 Stat. 124.)

§ 589. Definitions

When used in this chapter—

(1) The term "person" includes individuals, partnerships, corporations, and associations.

(2) The term "Secretary of Agriculture" means the Secretary of Agriculture of the United States.

(3) Except as provided herein, the term "foreign commerce" means commerce between any State, or the District of Columbia, and any place outside of the United States or its possessions.

(4) The term "apples and/or pears" means fresh whole apples or pears, whether or not they have been in storage.

(June 10, 1933, ch. 59, § 9, 48 Stat. 124.)

§ 590. Authorization of appropriations

There are authorized to be appropriated such sums as may be necessary for the administration of this chapter.

(June 10, 1933, ch. 59, § 10, as added Oct. 1, 1962, Pub. L. 87-725, § 12, 76 Stat. 676.)

CHAPTER 25A—EXPORT STANDARDS FOR GRAPES AND PLUMS

Sec.
591. Standards of export; establishment; shipping without certificate forbidden; hearings.
592. Notice of establishment of standards; shipments under contracts made before adoption of standards.
593. Foreign standards; certification of compliance.
594. Exemption of minimum quantities.
595. Fees for inspection and certification; certificates as prima facie evidence.
596. Refusal of certificates for violations of law; penalties for violations.
597. Rules and regulations; cooperation with other agencies; compensation of officers and employees; effect on other laws.
598. Separability of provisions.
599. Definitions.

§ 591. Standards of export; establishment; shipping without certificate forbidden; hearings

It shall be unlawful for any person to ship or offer for shipment or for any carrier, or any steamship company, or any person to transport or receive for transportation to any foreign destination, except as provided in this chapter, any grapes or plums of any variety in packages which are not accompanied by a certificate issued under authority of the Secretary showing that such grapes or plums are of a Federal or State grade which meets the minimum of quality established for such variety and destination by the Secretary for shipment in export to such destination. The Secretary is authorized to prescribe, by regulations, the requirements, other than those of grades, which the fruit must meet before certificates are issued. The Secretary shall provide opportunity, by public hearing or otherwise for interested persons to examine and make recommendation with respect to any standard of export proposed to be established or designated, or regulation prescribed, by the Secretary for the purposes of this chapter.

(Pub. L. 86-687, § 1, Sept. 2, 1960, 74 Stat. 734; Pub. L. 87-105, § 1, July 26, 1961, 75 Stat. 220; Pub. L. 93-606, Jan. 2, 1975, 88 Stat. 1966.)

AMENDMENTS

1975—Pub. L. 93-606 added "and destination" and "to such destination" following "such variety" and "for shipment in export", respectively.

1961—Pub. L. 87-105 inserted "of any variety" and "for such variety" after "any grapes or plums" and "minimum of quality established", respectively.

§ 592. Notice of establishment of standards; shipments under contracts made before adoption of standards

The Secretary shall give reasonable notice through one or more trade papers of the effective date of standards of export established or designated by him under this chapter: *Provided,* That any grapes or plums may be certified and shipped for export in fulfillment of any contract made within two months prior to the date of such shipment if the terms of such contract were in accordance with the grades and regulations of the Secretary in effect at the time the contract was made.

(Pub. L. 86-687, § 2, Sept. 2, 1960, 74 Stat. 734.)

§ 593. Foreign standards; certification of compliance

Where the government of the country to which the shipment is to be made has standards or requirements as to condition of grapes and plums the Secretary may in addition to inspection and certification for compliance with the standards established or designated hereunder inspect and certify for determination as to compliance with the standards or requirements of such foreign government and may provide for special certificates in such cases.

(Pub. L. 86-687, § 3, Sept. 2, 1960, 74 Stat. 734.)

§ 594. Exemption of minimum quantities

The Secretary may, by regulation, exempt from compliance with the provisions of this chapter (1) any variety or varieties of grapes and plums, and (2) the shipment of such minimum quantities of grapes and plums to any foreign country as he may prescribe.

(Pub. L. 86-687, § 4, Sept. 2, 1960, 74 Stat. 734; Pub. L. 87-105, § 2, July 26, 1961, 75 Stat. 220.)

AMENDMENTS

1961—Pub. L. 87-105 added clause (1) and designated existing provisions as clause (2).

§ 595. Fees for inspection and certification; certificates as prima facie evidence

For inspecting and certifying the grade, quality, or condition of grapes or plums the Secretary shall cause to be collected a reasonable fee which shall, as nearly as may be, cover the cost of the service rendered: *Provided,* That when cooperative arrangements satisfactory to the Secretary, or his designated representative, for carrying out the purposes of this chapter cannot be made the fees collected hereunder in such cases shall be available until expended to defray the cost of the service rendered, and in such cases the limitations on the amounts expended for the purchase and maintenance of motor-propelled passenger-carrying vehicles shall not be applicable: *Provided further,* That certificates issued by the authorized agents of the United States Department of Agriculture shall be received in all courts of the United States as prima facie evidence of the truth of the statements therein contained.

(Pub. L. 86-687, § 5, Sept. 2, 1960, 74 Stat. 734.)

§ 596. Refusal of certificates for violations of law; penalties for violations

After opportunity for hearing the Secretary is authorized to refuse the issuance of certificates under this chapter for periods not exceeding ninety days to any person who ships or offers for shipment any grapes or plums in foreign commerce in violation of any of the provisions of this chapter. Any person or any common carrier or any transportation agency violating any of the provisions of this chapter shall be fined not less than $100 nor more than $10,000 by a court of competent jurisdiction.

(Pub. L. 86-687, § 6, Sept. 2, 1960, 74 Stat. 734.)

§ 597. Rules and regulations; cooperation with other agencies; compensation of officers and employees; effect on other laws

The Secretary may make such rules, regulations, and orders, and require such reports, as may be necessary to carry out the provisions of this chapter, and may cooperate with any department or agency of the Government, any State, Territory, District, or possession, or department, agency, or political subdivision thereof, or any person, whether operating in one or more jurisdictions; and shall have the power to appoint, remove, and fix the compensation of such officers and employees not in conflict with existing law, and make such expenditures for rent outside the District of Columbia, printing, binding, telegrams, telephones, law books, books of reference, publications, furniture, stationery, office equipment, travel, and other supplies and expenses including reporting services, as shall be necessary to the administration of this chapter in the District of Columbia and elsewhere, and as may be appropriated for by Congress. This chapter shall not abrogate nor nullify any other statute, whether State or Federal, dealing with the same subjects as this chapter; but it is intended that all such statutes shall remain in full force and effect except insofar as they are inconsistent herewith or repugnant hereto.

(Pub. L. 86-687, § 7, Sept. 2, 1960, 74 Stat. 735.)

§ 598. Separability of provisions

If any provision of the chapter or the application thereof to any person or circumstances is held invalid, the validity of the remainder of the chapter and of the application of such provision to other persons and circumstances shall not be affected thereby.

(Pub. L. 86-687, § 8, Sept. 2, 1960, 74 Stat. 735.)

§ 599. Definitions

When used in this chapter—

(1) The term "person" includes individuals, partnerships, corporations, and associations.

(2) The term "Secretary" means the Secretary of Agriculture.

(3) Except as provided herein, the term "foreign commerce" means commerce between any State, or the District of Columbia, and any place outside of the United States or its possessions.

(4) The term "grapes" means vinifera species table grapes, European type, whether or not they have been in storage.

(5) The term "plums" means both European and Japanese type, whether or not they have been in storage, but does not mean Italian-type prunes, nor damson-type plums.

(Pub. L. 86-687, § 9, Sept. 2, 1960, 74 Stat. 735.)

CHAPTER 26—AGRICULTURAL ADJUSTMENT

SUBCHAPTER I—DECLARATION OF CONDITIONS AND POLICY

Sec.
601. Declaration of conditions.
602. Declaration of policy; establishment of price basing period; marketing standards; orderly supply flow; circumstances for continued regulation.

SUBCHAPTER II—COTTON OPTION CONTRACTS

603. Government owned cotton; transfer to Secretary of Agriculture; powers of Secretary.
604. Borrowing money; expenditures; authority of Secretary.
605, 606. Repealed.
607. Sale by Secretary; additional options; validation of assignments; publication of information.

SUBCHAPTER III—COMMODITY BENEFITS

608. Powers of Secretary.
(1) Investigations; proclamation of findings.
(2) Agreements for adjustment of acreage or production and for rental or benefit payments.
(3) Payments by Secretary.
(4) Additional investigation; suspension of exercise of powers.
(5) Hearings; notice.
(6) Commodity in which payment made.
(7) Additional payments to producers of sugar beets or sugarcane.
(8) Pledge by rice producer for production credit of right to rental or benefit payments.
(9) Advances of payments on stored nonperishable commodity.
608-1. Omitted.
608a. Enforcement of chapter.
(1) to (4) Omitted.
(5) Forfeitures.
(6) Jurisdiction of district courts.
(7) Duties of United States attorneys; investigation of violations by Secretary; hearings.

Sec.
(8) Cumulative remedies.
(9) "Person" defined.
608a-1. Repealed.
608b. Marketing agreements; exemption from antitrust laws.
608c. Orders regulating handling of commodity.
(1) Issuance by Secretary.
(2) Commodities to which applicable; single commodities and separate agricultural commodities.
(3) Notice and hearing.
(4) Finding and issuance of order.
(5) Milk and its products; terms and conditions of orders.
(6) Other commodities; terms and conditions of orders.
(7) Terms common to all orders.
(8) Orders with marketing agreement.
(9) Orders with or without marketing agreement.
(10) Manner of regulation and applicability.
(11) Regional application.
(12) Approval of cooperative association as approval of producers.
(13) Retailer and producer exemption.
(14) Violation of order; penalty.
(15) Petition by handler for modification of order or exemption; court review of ruling of Secretary.
(16) Termination of orders and marketing agreements.
(17) Provisions applicable to amendments.
(18) Milk prices.
(19) Producer or processor referendum for approving order.
608c-1. Repealed.
608d. Books and records; disclosure of information.
608e. Repealed.
608e-1. Import prohibitions on tomatoes, avocados, limes, etc.; rules and regulations.
608f. Repealed.
609. Processing tax; methods of computation; rate; what constitutes processing; publicity as to tax to avoid profiteering.
610. Administration.
(a) Apportionment of officers and employees; impounding appropriations.
(b) State and local committees or associations of producers; handlers' share of expenses of authority or agency.
(c) Regulations; penalty for violation.
(d) Regulations of Secretary of Treasury
(e) Review of official acts.
(f) Geographical application.
(g) Officers; dealing or speculating in agricultural products; penalties.
(h) Adoption of Federal Trade Commission Act; hearings; report of violations to Attorney General.
(i) Cooperation with State authorities; imparting information.
(j) Definitions.
611. "Basic agricultural commodity" defined; exclusion of commodities.
612. Appropriation; use of revenues; administrative expenses.
612a, 612b. Omitted.
612c. Appropriation to encourage exportation and domestic consumption of agricultural products.
612c-1. Authorization for appropriations to increase domestic consumption of surplus farm commodities.
612c-2. Technical support to exporters and importers of United States agricultural products; scope of support provided by Department of Agriculture.
Sec.
612c-3. Export sales reports; reporting period; contents; confidentiality; compilation and publication by Secretary; penalty for failure to report; monthly reports.
613. Termination date; investigations and reports.
613a. Repealed.
614. Separability of provisions.
615. Refunds of tax; exemptions from tax; compensating tax; compensating tax on foreign goods; covering into Treasury.
616. Stock on hand when tax takes effect or terminates.
617. Refund on goods exported; bond to suspend tax on commodity intended for export.
618. Existing contracts; imposition of tax on vendee; collection.
619. Collection of tax; provisions of internal revenue laws applicable; returns.
619a. Cotton tax, time for payment.
620. Falsely ascribing deductions or charges to taxes; penalty.
621. Machinery belting processed from cotton; exemption from tax.
622. Omitted.
623. Actions relating to tax; legalization of prior taxes.
(a) Action to restrain collection of tax or obtain declaratory judgment forbidden.
(b) Taxes imposed prior to August 24, 1935, legalized and ratified.
(c) Rental and benefit payments, agreements, and programs made prior to August 24, 1935, legalized and ratified.
624. Limitation on imports; authority of President.

SUBCHAPTER IV—REFUNDS

641 to 659. Omitted.

CROSS REFERENCES

Agricultural Adjustment Act of 1938, see section 1281 et seq. of this title.

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in sections 671, 672, and 673 of this title; title 12 section 1150a; title 18 section 433.

SUBCHAPTER I—DECLARATION OF CONDITIONS AND POLICY

§ 601. Declaration of conditions

It is declared that the disruption of the orderly exchange of commodities in interstate commerce impairs the purchasing power of farmers and destroys the value of agricultural assets which support the national credit structure and that these conditions affect transactions in agricultural commodities with a national public interest, and burden and obstruct the normal channels of interstate commerce.

(May 12, 1933, ch. 25, title I, § 1, 48 Stat. 31; June 3, 1937, ch. 296, §§ 1, 2(a), 50 Stat. 246.)

SHORT TITLE

Section 8(a) of act June 16, 1933, ch. 90, 48 Stat. 199, provided in part that title I of act May 12, 1933, which is classified to this chapter, may for all purposes be referred to as the "Agricultural Adjustment Act."

VALIDITY OF CERTAIN SECTIONS AFFIRMED

Act June 3, 1937, ch. 296, §§ 1, 2, 50 Stat. 246, provided as follows:

"The following provisions of the Agricultural Adjustment Act, as amended, not having been intended

for the control of the production of agricultural commodities, and having been intended to be effective irrespective of the validity of any other provision of that Act are expressly affirmed and validated, and are reenacted without change except as provided in section 2:

"(a) Section 1 (relating to the declaration of emergency [this section]):

"(b) Section 2 (relating to declaration of policy [section 602 of this title]):

"(c) Section 8a(5), (6), (7), (8), and (9) (relating to violations and enforcement [section 608a(5), (6), (7), (8), and (9) of this title]);

"(d) Section 8b (relating to marketing agreements [section 608b of this title]);

"(e) Section 8c (relating to orders [section 608c of this title]);

"(f) Section 8d (relating to books and records [section 608d of this title]);

"(g) Section 8e (relating to determination of base period [former section 608e of this title]);

"(h) Section 10(a), (b)(2), (c), (f), (g), (h), and (i) (miscellaneous provisions [section 610(a), (b)(2), (c), (f), (g), (h), and (i) of this title]);

"(i) Section 12(a) and (c) (relating to appropriation and expenses [section 612(a) and (c) of this title]);

"(j) Section 14 (relating to separability [section 614 of this title]);

"(k) Section 22 (relating to imports [section 624 of this title]).

"SEC. 2. The following provisions, reenacted in section I of this act, are amended as follows: * * * [sections 601, 602(1), 608a(6), 608c(5)(B)(d), (6)(B), (6)(B)(18), (19), 610(c), (f), 612(a)]."

Section 2 of act June 3, 1937, also added subdivision (j) to section 610.

Section 2 of act June 3, 1937, was amended by act Aug. 5, 1937, ch. 567, 50 Stat. 563, which amending act provided for amendments to subdivs. (2) and (6) of section 608c of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 671, 672, 673, 1392 of this title.

§ 602. Declaration of policy; establishment of price basing period; marketing standards; orderly supply flow; circumstances for continued regulation

It is declared to be the policy of Congress—

(1) Through the exercise of the powers conferred upon the Secretary of Agriculture under this chapter, to establish and maintain such orderly marketing conditions for agricultural commodities in interstate commerce as will establish, as the prices to farmers, parity prices as defined by section 1301(a)(1) of this title.

(2) To protect the interest of the consumer by (a) approaching the level of prices which it is declared to be the policy of Congress to establish in subsection (1) of this section by gradual correction of the current level at as rapid a rate as the Secretary of Agriculture deems to be in the public interest and feasible in view of the current consumptive demand in domestic and foreign markets, and (b) authorizing no action under this chapter which has for its purpose the maintenance of prices to farmers above the level which it is declared to be the policy of Congress to establish in subsection (1) of this section.

(3) Through the exercise of the powers conferred upon the Secretary of Agriculture under this chapter, to establish and maintain such production research, marketing research, and development projects provided in section 608c(6)(I) of this title, such container and pack requirements provided in section 608c(6)(H) of this title, such minimum standards of quality and maturity and such grading and inspection requirements for agricultural commodities enumerated in section 608c (2) of this title, other than milk and its products, in interstate commerce as will effectuate such orderly marketing of such agricultural commodities as will be in the public interest.

(4) Through the exercise of the powers conferred upon the Secretary of Agriculture under this chapter, to establish and maintain such orderly marketing conditions for any agricultural commodity enumerated in section 608c(2) of this title as will provide, in the interests of producers and consumers, an orderly flow of the supply thereof to market throughout its normal marketing season to avoid unreasonable fluctuations in supplies and prices.

(5) Through the exercise of the power conferred upon the Secretary of Agriculture under this chapter, to continue for the remainder of any marketing season or marketing year, such regulation pursuant to any order as will tend to avoid a disruption of the orderly marketing of any commodity and be in the public interest, if the regulation of such commodity under such order has been initiated during such marketing season or marketing year on the basis of its need to effectuate the policy of this chapter.

(May 12, 1933, ch. 25, title I, § 2, 48 Stat. 32; Aug. 24, 1935, ch. 641, §§ 1, 62, 49 Stat. 750, 782; June 3, 1937, ch. 296, §§ 1, 2(b), 50 Stat. 246, 247; Aug. 1, 1947, ch. 425, § 1, 61 Stat. 707; July 3, 1948, ch. 827, title III, § 302(a), 62 Stat. 1257; Aug. 28, 1954, ch. 1041, title IV, § 401(a), 68 Stat. 906; Aug. 8, 1961, Pub. L. 87-128, title I, § 141(1), 75 Stat. 303; Nov. 8, 1965, Pub. L. 89-330, § 1(a), 79 Stat. 1270; June 25, 1970, Pub. L. 91-292, § 1(1), 84 Stat. 333.)

AMENDMENTS

1970—Subsec. (3). Pub. L. 91-292 added the authority to establish and maintain the production research, marketing research, and development projects provided in section 608c(6)(I) of this title.

1965—Subsec. (3). Pub. L. 89-330 inserted "such container and pack requirements provided in section 608c(6)(H) of this title."

1961—Subsec. (5). Pub. L. 87-128 added subsec. (5).

1954—Subsec. (4). Act Aug. 28, 1954 added subsec. (4).

1948—Subsec. (1). Act July 3, 1948 made the definition of "parity" conform to definition stated in section 1301(a)(1) of this title.

1947—Subsec. (3). Act Aug. 1, 1947 added subsec. (3).

1937—Act June 3, 1937 inserted "orderly marketing conditions for agricultural commodities in interstate commerce as will establish" preceding "as the prices to farmers".

1935—Subsec. (1). Act Aug. 24, 1935, ch. 641, § 1, amended first sentence and act Aug. 24, 1935, ch. 641, § 62, amended second and third sentences.

Subsec. (2). Act Aug. 24, 1935 amended subsec. (2).

EFFECTIVE DATE OF 1948 AMENDMENT

Amendment of section by act July 3, 1948, effective of Jan. 1, 1950, see note set out under section 1301 of this title.

VALIDITY OF SECTION AFFIRMED

Section 1 of act June 3, 1937, affirmed and validated, and reenacted without change the provisions of this section except for the amendment to subsec. (1) by section 2 of said act. See note under section 601 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 608c, 609, 672, 673, 1392 of this title.

SUBCHAPTER II—COTTON OPTION CONTRACTS

§ 603. Government owned cotton; transfer to Secretary of Agriculture; powers of Secretary

The Farm Credit Administration and all departments and other agencies of the Government, not including the Federal intermediate credit banks are directed—

(a) To sell to the Secretary of Agriculture at such price as may be agreed upon, not in excess of the market price, all cotton now owned by them.

(b) To take such action and to make such settlements as are necessary in order to acquire full legal title to all cotton on which money has been loaned or advanced by any department or agency of the United States, including futures contracts for cotton or which is held as collateral for loans or advances and to make final settlement of such loans and advances as follows:

(1) In making such settlements with regard to cotton, including operations to which such cotton is related, such cotton shall be taken over by all such departments or agencies other than the Secretary of Agriculture at a price or sum equal to the amounts directly or indirectly loaned or advanced thereon and outstanding, including loans by the Government, department or agency and any loans senior thereto, plus any sums required to adjust advances to growers to 90 per centum of the value of their cotton at the date of its delivery in the first instance as collateral to the department or agency involved, such sums to be computed by subtracting the total amount already advanced to growers on account of pools of which such cotton was a part, from 90 per centum of the value of the cotton to be taken over as of the time of such delivery as collateral, plus unpaid accrued carrying charges and operating costs on such cotton, less, however, any existing assets of the borrower derived from net income, earnings, or profits arising from such cotton, and from operations to which such cotton is related; all as determined by the department or agency making the settlement.

(2) The Secretary of Agriculture shall make settlements with respect to cotton held as collateral for loans or advances made by him on such terms as in his judgment may be deemed advisible, and to carry out the provisions of this section, is authorized to indemnify or furnish bonds to warehousemen for lost warehouse receipts and to pay the premiums on such bonds.

When full legal title to the cotton referred to in this subsection has been acquired, it shall be sold to the Secretary of Agriculture for the purposes of this section, in the same manner as provided in subsection (a) of this section.

(c) The Secretary of Agriculture is authorized to purchase the cotton specified in subsections (a) and (b) of this section.

(May 12, 1933, ch. 25, title I, § 3, 48 Stat. 32; 1933 Ex. Ord. No. 6084, Mar. 22, 1933.)

CHANGE OF NAME

Ex. Ord. No. 6084, set out as a note preceding section 2241 of Title 12, Banks and Banking, changed the name of "Federal Farm Board" to "Farm Credit Administration".

TRANSFER OF FUNCTIONS

Ex. Ord. No. 9322, Mar. 26, 1943, 8 F.R. 3807, as amended by Ex. Ord. No. 9334, Apr. 19, 1943, 8 F.R. 5423, removed the Farm Credit Administration from the Food Production Administration of the Department of Agriculture and returned it to its former status as a separate agency of the Department.

Ex. Ord. No. 9280, Dec. 5, 1942, 7 F.R. 10179, made the Farm Credit Administration a part of the Food Production Administration of the Department of Agriculture.

The Farm Credit Administration was transferred to the Department of Agriculture by 1939 Reorg. Plan No. 1, § 401, 4 F.R. 2727, 53 Stat. 1423, set out in the Appendix to Title 5, Government Organization and Employees.

EXCEPTIONS FROM TRANSFER OF FUNCTIONS

Functions of the Corporations of the Department of Agriculture, the boards of directors and officers of such corporations; the Advisory Board of the Commodity Credit Corporation; and the Farm Credit Administration or any agency, officer or entity of, under, or subject to the supervision of the said Administration were excepted from the functions of officers, agencies and employees transferred to the Secretary of Agriculture by 1953 Reorg. Plan No. 2, § 1, effective June 4, 1953, 18 F.R. 3219, 67 Stat. 633, set out as a note under section 2201 of this title.

FARM CREDIT ADMINISTRATION

Establishment of Farm Credit Administration as independent agency, and other changes in status, functions, etc., see section 2241 et seq., of Title 12, Banks and Banking.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 604, 673 of this title.

§ 604. Borrowing money; expenditures; authority of Secretary

(a) The Secretary of Agriculture shall have authority to borrow money upon all cotton in his possession or control and may, at his discretion, deposit as collateral for such loans the warehouse receipts for such cotton.

(b) The Secretary of the Treasury is authorized to advance, in his discretion, out of any money in the Treasury not otherwise appropriated, the sum of $100,000,000 to the Secretary of Agriculture, for paying off any debt or debts which may have been or may be incurred by the Secretary of Agriculture and discharging any lien or liens which may have arisen or may arise pursuant to sections 603, 604, and 607 of this title, for protecting title to any cotton which may have been or may be acquired by the Secretary of Agriculture under authority of said sections, and for paying any expenses (including, but not limited to, warehouse charges, insurance, salaries, interest, costs, and commissions) incident to carrying, handling, insuring, and marketing of said cotton and for the pur-

poses described in subsection (e) of this section. This sum shall be available until the cotton acquired by the Secretary of Agriculture under authority of this chapter including cotton futures, shall have been finally marketed by any agency which may have been or may be established by the Secretary of Agriculture for the handling, carrying, insuring, or marketing of any cotton acquired by the Secretary of Agriculture.

(c) The funds authorized by subsection (b) of this section shall be made available to the Secretary of Agriculture from time to time upon his request and with the approval of the Secretary of the Treasury. Each such request shall be accompanied by a statement showing by weight and average grade and staple the quantity of cotton held by the Secretary of Agriculture and the approximate aggregate market value thereof.

(d) It is the purpose of subsections (b) and (c) of this section to provide an alternative method to that provided by subsection (a) of this section, for enabling the Secretary of Agriculture to finance the acquisition, carrying, handling, insuring, and marketing of cotton acquired by him under authority of section 603 of this title. The Secretary of Agriculture may at his discretion make use of either or both of the methods provided in this section for obtaining funds for the purposes hereinabove enumerated.

(e) The Secretary of Agriculture is authorized to use in his discretion any funds obtained by him pursuant to the provisions of subsection (a) or (b) of this section for making advances to any agency which may have been or may be established by the Secretary of Agriculture for the handling, carrying, insuring, or marketing of any cotton acquired by the Secretary of Agriculture, to enable any such agency to perform, exercise, and discharge any of the duties, privileges, and functions which such agency may be authorized to perform, exercise, or discharge.

(f) The proceeds derived from the sale of cotton shall be held for the Secretary of Agriculture by the Treasurer of the United States in a special deposit account and shall be used by the Secretary of Agriculture to discharge the obligations incurred under authority of sections 603, 604, and 607 of this title. Whenever any cotton shall be marketed the net proceeds (after discharge of other obligations incurred with respect thereto) derived from the sale thereof shall be used, to the extent required, to reimburse the Treasury for such portion of the funds hereby provided for as shall have been used, which shall be covered into the Treasury as a miscellaneous receipt. If when all of the cotton acquired by the Secretary of Agriculture shall have been marketed and all of the obligations incurred with respect to such cotton shall have been discharged, and the Treasury reimbursed for any and all sums which may have been advanced pursuant to subsection (b) of this section, there shall remain any balance in the hands of the Secretary of Agriculture, such balance shall be covered into the Treasury as miscellaneous receipts.

The word "obligation" when used in this section shall include (without being limited to) administrative expenses, warehouse charges, insurance, salaries, interest, costs, commissions, and other expenses incident to handling, carrying, insuring, and marketing of said cotton.

(May 12, 1933, ch. 25, title I, § 4, 48 Stat. 33; June 19, 1934, ch. 648, title II, § 1, 48 Stat. 1058; Aug. 24, 1935, ch. 641, §§ 35, 36, 49 Stat. 775.)

AMENDMENTS

1935—Subsec. (b). Act Aug. 24, 1935, added the last sentence, defining the word obligation.

1934—Subsec. (a). Act June 19, 1934, added "may in his discretion" after "or control and".

Subsecs. (b) to (f). Act June 19, 1934, added subsecs. (b) to (f).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 673 of this title; title 12 section 1150a.

§ 605. Repealed. June 30, 1947, ch. 166, title II, § 206(d), 61 Stat. 208

Section, acts May 12, 1933, ch. 25, title I, § 5, 48 Stat. 35; June 19, 1934, ch. 648, title II, § 1, 48 Stat. 1059, related to loans from Reconstruction Finance Corporation and warehouse receipts as collateral.

§ 606. Repealed. Aug. 24, 1935, ch. 641, § 34, 49 Stat. 775

Section, act May 12, 1933, ch. 25, title I, § 6, 48 Stat. 33, related to option contracts.

§ 607. Sale by Secretary; additional options; validation of assignments; publication of information

The Secretary shall sell cotton held or acquired by him pursuant to authority of this chapter at his discretion subject only to the conditions and limitations of this chapter: *Provided*, That the Secretary shall have authority to enter into option contracts with producers of cotton to sell to or for the producers such cotton held and/or acquired by him in such amounts and at such prices and upon such terms and conditions as he, the Secretary, may deem advisable, and such option contracts may be transferred or assigned in such manner as the Secretary of Agriculture may prescribe.

Notwithstanding any provisions contained in option contracts heretofore issued and/or any provision of law, assignments made prior to January 11, 1934, of option contracts exercised prior to January 18, 1934, shall be deemed valid upon determination by the Secretary that such assignment was an assignment in good faith of the full interest in such contract and for full value and is free from evidence of fraud or speculation by the assignee.

Notwithstanding any provision of existing law, the Secretary of Agriculture may, in the administration of this chapter, make public such information as he deems necessary in order to effectuate the purposes of this chapter.

(May 12, 1933, ch. 25, title I, § 7, 48 Stat. 34; June 16, 1933, ch. 90, title II, § 221, 48 Stat. 210; Aug. 24, 1935, ch. 641, § 33, 49 Stat. 775.)

AMENDMENTS

1935—Act Aug. 24, 1935, among other changes, inserted provisions as to presumption of validity of assignments made prior to Jan. 11, 1934 of option contracts exercised prior to Jan. 18, 1934 if in good faith, for full value, and without fraud or speculation by the assignee.

1933—Act June 16, 1933, amended section generally.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 608d, 673 of this title.

SUBCHAPTER III—COMMODITY BENEFITS

§ 608. Powers of Secretary

(1) Investigations; proclamation of findings

Whenever the Secretary of Agriculture has reason to believe that:

(a) The current average farm price for any basic agricultural commodity is less than the fair exchange value thereof, or the average farm price of such commodity is likely to be less than the fair exchange value thereof for the period in which the production of such commodity during the current or next succeeding marketing year is normally marketed, and

(b) The conditions of and factors relating to the production, marketing, and consumption of such commodity are such that the exercise of any one or more of the powers conferred upon the Secretary under subsections (2) and (3) of this section would tend to effectuate the declared policy of this chapter,

he shall cause an immediate investigation to be made to determine such facts. If, upon the basis of such investigation, the Secretary finds the existence of such facts, he shall proclaim such determination and shall exercise such one or more of the powers conferred upon him under subsections (2) and (3) of this section as he finds, upon the basis of an investigation, administratively practicable and best calculated to effectuate the declared policy of this chapter.

(2) Agreements for adjustment of acreage or production and for rental or benefit payments

Subject to the provisions of subsection (1) of this section, the Secretary of Agriculture shall provide, through agreements with producers or by other voluntary methods,

(a) For such adjustment in the acreage or in the production for market, or both, of any basic agricultural commodity, as he finds, upon the basis of the investigation made pursuant to subsection (1) of this section, will tend to effectuate the declared policy of this chapter, and to make such adjustment program practicable to operate and administer, and

(b) For rental or benefit payments in connection with such agreements or methods in such amounts as he finds, upon the basis of such investigation, to be fair and reasonable and best calculated to effectuate the declared policy of this chapter, and to make such program practicable to operate and administer, to be paid out of any moneys available for such payments or, subject to the consent of the producer, to be made in quantities of one or more basic agricultural commodities acquired by the Secretary pursuant to this chapter.

(3) Payments by Secretary

Subject to the provisions of subsection (1) of this section, the Secretary of Agriculture shall make payments, out of any moneys available for such payments, in such amounts as he finds, upon the basis of the investigation made pursuant to subsection (1) of this section, to be fair and reasonable and best calculated to effectuate the declared policy of this chapter:

(a) To remove from the normal channels of trade and commerce quantities of any basic agricultural commodity or product thereof;

(b) To expand domestic or foreign markets for any basic agricultural commodity or product thereof;

(c) In connection with the production of that part of any basic agricultural commodity which is required for domestic consumption.

(4) Additional investigation; suspension of exercise of powers

Whenever, during a period during which any of the powers conferred in subsection (2) or (3) of this section is being exercised, the Secretary of Agriculture has reason to believe that, with respect to any basic agricultural commodity:

(a) The current average farm price for such commodity is not less than the fair exchange value thereof, and the average farm price for such commodity is not likely to be less than the fair exchange value thereof for the period in which the production of such commodity during the current or next succeeding marketing year is normally marketed, or

(b) The conditions of and factors relating to the production, marketing, and consumption of such commodity are such that none of the powers conferred in subsections (2) and (3) of this section, and no combination of such powers, would, if exercised, tend to effectuate the declared policy of this chapter,

he shall cause an immediate investigation to be made to determine such facts. If, upon the basis of such investigation, the Secretary finds the existence of such facts, he shall proclaim such determination, and shall not exercise any of such powers with respect to such commodity after the end of the marketing year current at the time when such proclamation is made and prior to a new proclamation under subsection (1) of this section, except insofar as the exercise of such power is necessary to carry out obligations of the Secretary assumed, prior to the date of such proclamation made pursuant to this subsection, in connection with the exercise of any of the powers conferred upon him under subsections (2) or (3) of this section.

(5) Hearings; notice

In the course of any investigation required to be made under subsection (1) or (4) of this section, the Secretary of Agriculture shall hold one or more hearings, and give due notice and opportunity for interested parties to be heard.

(6) Commodity in which payment made

No payment under this chapter made in an agricultural commodity acquired by the Secretary in pursuance of this chapter shall be made in a commodity other than that in respect of which the payment is being made. For the purposes of this subsection, hogs and field corn may be considered as one commodity.

(7) Additional payments to producers of sugar beets or sugarcane

In the case of sugar beets or sugarcane, in the event that it shall be established to the satisfaction of the Secretary of Agriculture that returns to growers or producers, under the contracts for the 1933-1934 crop of sugar beets or sugarcane, entered into by and between the processors and producers and/or growers thereof, were reduced by reason of the payment of the processing tax, and/or the corresponding floor stocks tax, on sugar beets or sugarcane, in addition to the foregoing rental or benefit payments, the Secretary of Agriculture shall make such payments, representing in whole or in part such tax, as the Secretary deems fair and reasonable, to producers who agree, or have agreed, to participate in the program for reduction in the acreage or reduction in the production for market, or both, of sugar beets or sugarcane.

(8) Pledge by rice producer for production credit of right to rental or benefit payments

In the case of rice, the Secretary of Agriculture, in exercising the power conferred upon him by subsection (2) of this section to provide for rental or benefit payments, is directed to provide in any agreement entered into by him with any rice producer pursuant to such subsection, upon such terms and conditions as the Secretary determines will best effectuate the declared policy of this chapter, that the producer may pledge for production credit in whole or in part his right to any rental or benefit payments under the terms of such agreement and that such producer may designate therein a payee to receive such rental or benefit payments.

(9) Advances of payments on stored nonperishable commodity.

Under regulations of the Secretary of Agriculture requiring adequate facilities for the storage of any nonperishable agricultural commodity on the farm, inspection and measurement of any such commodity so stored, and the locking and sealing thereof, and such other regulations as may be prescribed by the Secretary of Agriculture for the protection of such commodity and for the marketing thereof, a reasonable percentage of any benefit payment may be advanced on any such commodity so stored. In any such case such deduction may be made from the amount of the benefit payment as the Secretary of Agriculture determines will reasonably compensate for the cost of inspection and sealing but no deduction may be made for interest.

(May 12, 1933, ch. 25, title I, § 8, 48 Stat. 34; Apr. 7, 1934, ch. 103, § 7, 48 Stat. 528; May 9, 1934, ch. 263, § 14, 48 Stat. 676; Mar. 18, 1935, ch. 32, § 7, 49 Stat. 46; Aug. 24, 1935, ch. 641, §§ 2, 4-7, 49 Stat. 751, 753-762.)

CODIFICATION

Section as originally enacted consisted of subsections (1) to (5). Act Aug. 24, 1935, amended section by striking out or amending and redesignating the various subsections.

AMENDMENTS

1935—Subsection (1) was, together with subsecs. (2) to (9), inserted in lieu of former (1) by section 2 of act Aug. 24, 1935, which also struck out former (1) as amended by acts May 9, 1934, and March 18, 1935.

Subsec. (2) was, together with subsecs. (1) and (3) to (9), inserted in lieu of former (1) by section 2 of act Aug. 24, 1935. Former subsec. (2), as amended by act Apr. 7, 1934, was designated section 8b of the Agricultural Adjustment Act, section 608b of this title, and amended by section 4 of said act Aug. 24, 1935.

Subsec. (3) was, together with subsecs. (1), (2), and (4) to (9), inserted in lieu of former (1) by section 2 of act Aug. 24, 1935. Former subsec. (3) was struck out by section 5 of said act Aug. 24, 1935, which also added section 8c to the Agricultural Adjustment Act, section 608c of this title.

Subsec. (4) was, together with subsecs. (1) to (3) and (5) to (9), inserted in lieu of former section (1) by section 2 of act Aug. 24, 1935. Former subsec. (4) was struck out by section 6 of said act Aug. 24, 1935, which also added sections 8d and 8e to the Agricultural Adjustment Act, section 608d and former section 608e, respectively, of this title.

Subsec. (5) was, together with subsecs. (1) to (4) and (6) to (9), inserted in lieu of former (1) by section 2 of act Aug. 24, 1935. Former subsec. (5) was designated section 8f of the Agricultural Adjustment Act, section 608f of this title, and amended by section 7 of said act Aug. 24, 1935.

Subsecs. (6) to (9) were, together with subsecs. (1) to (5), inserted in lieu of former (1) by section 2 of act Aug. 24, 1935.

1934—Act May 9, 1934, amended former subsec. (1) generally.

Act Apr. 7, 1934, amended former subsec. (2) by deleting the proviso.

VALIDITY OF AGREEMENTS AND LICENSES PRESERVED UNDER 1935 ACT

Section 38 of the act Aug. 24, 1935, which amended this chapter, generally provided as follows: "Nothing contained in this Act shall (a), invalidate any marketing agreement or license in existence on the date of the enactment hereof, or any provision thereof, or any act done pursuant thereto, either before or after the enactment of this Act, or (b) impair any remedy provided for on the date of the enactment thereof for the enforcement of any such marketing agreement or license, or (c) invalidate any agreement entered into pursuant to section 8(1) of the Agricultural Adjustment Act prior to the enactment of this Act, or subsequent to the enactment of this Act in connection with a program the initiation of which has been formally approved by the Secretary of Agriculture under such section 8(1) prior to the enactment of this Act, or any act done or agreed to be done or any payment made or agreed to be made in pursuance of any such agreement, either before or after the enactment of this Act, or any change in the terms and conditions of any such agreement, or any voluntary arrangements or further agreements which the Secretary finds necessary or desirable in order to complete or terminate such program pursuant to the declared policy of the Agricultural Adjustment Act: *Provided*, That the Secretary shall not prescribe, pursuant to any such agreement or voluntary arrangement, any adjustment in the acreage or in the production for market of any basic agricultural commodity to be made after July 1, 1937, except pursuant to the provisions of section 8 of the Agricultural Adjustment Act as amended by this Act."

CROSS REFERENCES

Delegation of regulatory functions of Secretary of Agriculture, see section 450c of this title.

Marketing quotas for tobacco, corn, wheat, cotton, and rice, see section 1311 et seq. of this title.

Parity payments to producers, see section 1303 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 609, 610, 612, 623, 673 of this title; title 12 section 1150a.

§ 608-1. Omitted

CODIFICATION

Section, act July 2, 1940, ch. 521, § 9, 54 Stat. 729, related to adjustments between payee and third persons, and is omitted as executed.

§ 608a. Enforcement of chapter

(1) to (4) Omitted

(5) Forfeitures

Any person exceeding any quota or allotment fixed for him under this chapter by the Secretary of Agriculture and any other person knowingly participating or aiding in the exceeding of such quota or allotment shall forfeit to the United States a sum equal to the value of such excess at the current market price for such commodity at the time of violation, which forfeiture shall be recoverable in a civil suit brought in the name of the United States.

(6) Jurisdiction of district courts

The several district courts of the United States are vested with jurisdiction specifically to enforce, and to prevent and restrain any person from violating any order, regulation, or agreement, heretofore or hereafter made or issued pursuant to this chapter, in any proceeding now pending or hereafter brought in said courts.

(7) Duties of United States attorneys; investigation of violations by Secretary; hearings

Upon the request of the Secretary of Agriculture, it shall be the duty of the several United States attorneys, in their respective districts, under the directions of the Attorney General, to institute proceedings to enforce the remedies and to collect the forfeitures provided for in, or pursuant to this chapter. Whenever the Secretary, or such officer or employee of the Department of Agriculture as he may designate for the purpose, has reason to believe that any handler has violated, or is violating, the provisions of any order or amendment thereto issued pursuant to this chapter, the Secretary shall have power to institute an investigation and, after due notice to such handler, to conduct a hearing in order to determine the facts for the purpose of referring the matter to the Attorney General for appropriate action.

(8) Cumulative remedies

The remedies provided for in this section shall be in addition to, and not exclusive of, any of the remedies or penalties provided for elsewhere in this chapter or now or hereafter existing at law or in equity.

(9) "Person" defined

The term "person" as used in this chapter includes an individual, partnership, corporation, association, and any other business unit.

(May 12, 1933, ch. 25, title I, § 8a, as added May 9, 1934, ch. 263, § 4, 48 Stat. 672, and amended Aug. 24, 1935, ch. 641, §§ 8-10, 49 Stat. 762; June 3, 1937, ch. 296, §§ 1, 2(c), 50 Stat. 246, 247; June 25, 1948, ch. 646, § 1, 62 Stat. 909; Aug. 8, 1961, Pub. L. 87-128, title I, § 141(2), 75 Stat. 304.)

CODIFICATION

Provisions of subsecs. (1) to (4), relating to establishment, regulation and determination of sugar quotas, agreements limiting or regulating child labor, wages, and adjustment of disputes in the sugar industry, and prescribing penalties for violations thereof, are omitted since they ceased to apply on Sept. 1, 1937, in accordance with the provisions of section 510 of the Sugar Act of 1937, act Sept. 1, 1937, ch. 898, 50 Stat. 916. Section 510 of act Sept. 1, 1937, provided in part that: "The provisions of the Agricultural Adjustment Act, as amended [this chapter], shall cease to apply to sugar upon the enactment of this Act [Sept. 1, 1937]". Provisions similar to former subsecs. (1) to (4) are contained in the Sugar Act of 1948, section 1100 et seq. of this title.

AMENDMENTS

1961—Subsec. (5). Pub. L. 87-128 deleted "willfully" following "Any person" and substituted provision for forfeiture of a sum equal to the value of the excess at the current market price for the commodity at the time of violation for provision for forfeiture of a sum equal to three times the current market value of the excess.

1937—Subsec. (6). Act June 3, 1937, § 2(c), struck out "the provisions of this section, or of".

1935—Subsec. (1). Act Aug. 24, 1935, § 8, substituted "persons engaged in handling" for "handlers" wherever appearing; struck out "or in competition with," in paragraph (B); inserted "directly" before "to burden" in paragraph (B); and struck out the words "in any way" in paragraph (B).

Subsec. (6). Act Aug. 24, 1935, § 9, inserted "or" after the comma following "regulation" and struck out "or license".

Subsec. (7). Act Aug. 24, 1935, § 10, added the last sentence.

1934—Subsec. (1). Act May 9, 1934, added subsec. (1).

Subsecs. (5) to (9). Act May 9, 1934, added subsecs. (5) to (9).

CHANGE OF NAME

The term "district attorneys of the United States" was changed to "United States attorneys" by act June 25, 1948. See section 541 et seq. of Title 28, Judiciary and Judicial Procedure.

ADMISSION OF HAWAII AS STATE

Admission of Hawaii into the Union was accomplished Aug. 21, 1959 upon issuance of Proc. No. 3309, Aug. 21, 1959, 24 F.R. 6868, 73 Stat. c74, as required by sections 1 and 7(c) of Pub. L. 86-3, Mar. 18, 1959, 73 Stat. 4, set out as notes preceding 491 of Title 48, Territories and Insular Possessions.

VALIDITY OF SECTION AFFIRMED

Act June 3, 1937, affirmed and validated, and reenacted without change the provisions of subsections (5), (6), (7), (8), and (9) of this section, except for the amendment to subsection (6) by section 2 of the act. See note to section 601 of this title.

CROSS REFERENCES

Anti-hog-cholera serum and hog-cholera virus provisions, provisions of section as applicable to, see section 855 of this title.

Jurisdiction of district courts of actions for fines, penalties and forfeitures, see section 1355 of Title 28, Judiciary and Judicial Procedure.

Pendency of proceedings by handler for modification of order or exemption as not impeding the United States or the Secretary from obtaining relief pursuant to subsection (6) of this section, see section 608c of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 608c, 608e-1, 616, 672, 673, 855, 1392 of this title.

§ 608a–1. Repealed. Sept. 1, 1937, ch. 898, title V, § 510, 50 Stat. 916

Section, act June 19, 1936, ch. 612, § 2, 49 Stat. 1539, related to additional provisions regulating the sugar quotas.

§ 608b. Marketing agreements; exemption from antitrust laws

In order to effectuate the declared policy of this chapter, the Secretary of Agriculture shall have the power, after due notice and opportunity for hearing, to enter into marketing agreements with processors, producers, associations of producers, and others engaged in the handling of any agricultural commodity or product thereof, only with respect to such handling as is in the current of interstate or foreign commerce or which directly burdens, obstructs, or affects, interstate or foreign commerce in such commodity or product thereof. The making of any such agreement shall not be held to be in violation of any of the antitrust laws of the United States, and any such agreement shall be deemed to be lawful: *Provided*, That no such agreement shall remain in force after the termination of this chapter.

(May 12, 1933, ch. 25, title I, § 8b, formerly § 8 (2), 48 Stat. 34; Apr. 7, 1934, ch. 103, § 7, 48 Stat. 528; renumbered and amended Aug. 24, 1935, ch. 641, § 4, 49 Stat. 753; June 3, 1937, ch. 296, § 1, 50 Stat. 246; June 30, 1947, ch. 166, title II, § 206(d), 61 Stat. 208.)

CODIFICATION

The provisions now appearing in this section except the first sentence, were originally enacted as part of section 8(2) of act May 12, 1933, and formerly appeared as section 608(2) of this title.

AMENDMENTS

1947—Act June 30, 1947, repealed provisions providing for loans from the Reconstruction Finance Corporation.

1935—Act Aug. 24, 1935, designated subsection 2 of section 8 of act May 12, 1933, as section 8b and changed the first sentence to read as it now appears in the text.

1934—Act Apr. 7, 1934, empowered the Secretary of Agriculture to enter into marketing agreements with individual producers.

VALIDITY OF SECTION AFFIRMED

Act June 3, 1937, affirmed and validated, and reenacted without change the provisions of this section. See note to section 601 of this title.

CROSS REFERENCES

Anti-trust laws, see section 1 et seq. of Title 15, Commerce and Trade.

Orders with marketing agreement, see section 608c of this title.

Termination of marketing agreements entered into under this section, see section 608c of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 608c, 672, 673, 1392 of this title; title 12 section 1150a.

§ 608c. Orders regulating handling of commodity

(1) Issuance by Secretary

The Secretary of Agriculture shall, subject to the provisions of this section, issue, and from time to time amend, orders applicable to processors, associations of producers, and others engaged in the handling of any agricultural commodity or product thereof specified in subsection (2) of this section. Such persons are referred to in this chapter as "handlers." Such orders shall regulate, in the manner hereinafter in this section provided, only such handling of such agricultural commodity, or product thereof, as is in the current of interstate or foreign commerce, or which directly burdens, obstructs, or affects, interstate or foreign commerce in such commodity or product thereof.

(2) Commodities to which applicable; single commodities and separate agricultural commodities

Orders issued pursuant to this section shall be applicable only to (A) the following agricultural commodities and the products thereof (except canned or frozen pears, grapefruit, cherries, apples, or cranberries, the products of naval stores, and the products of honeybees), or to any regional, or market classification of any such commodity or product: Milk, fruits (including filberts, almonds, pecans, and walnuts but not including apples, other than apples produced in the States of Washington, Oregon, Idaho, New York, Michigan, Maryland, New Jersey, Indiana, California, Maine, Vermont, New Hampshire, Rhode Island, Massachusetts, Connecticut, Colorado, Utah, New Mexico, Illinois, and Ohio, and not including fruits for canning or freezing other than pears, olives, grapefruit, cherries, cranberries, and apples produced in the States named above except Washington, Oregon, and Idaho), tobacco, vegetables (not including vegetables, other than asparagus, for canning or freezing and not including potatoes for canning, freezing, or other processing), hops, honeybees, and naval stores as included in the Naval Stores Act [7 U.S.C. 91 et seq.] and standards established thereunder (including refined or partially refined oleoresin): *Provided*, That no order issued pursuant to this section shall be effective as to any grapefruit for canning or freezing unless the Secretary of Agriculture determines, in addition to other findings and determinations required by this chapter, that the issuance of such order is approved or favored by the processors who, during a representative period determined by the Secretary, have been engaged in canning or freezing such commodity for market and have canned or frozen for market more than 50 per centum of the total volume of such commodity canned or frozen for market during such representative period; and (B) any agricultural commodity (except honey, cotton, rice, wheat, corn, grain sorghums, oats, barley, rye, sugarcane, sugarbeets, wool, mohair, livestock, soybeans, cottonseed, flaxseed, poultry (but not excepting turkeys), eggs (but not excepting turkey hatching eggs), fruits and vegetables for canning or freezing, including potatoes for canning, freezing, or other processing, and apples), or any regional or market classification thereof, not subject to orders under (A) of this subdivision, but not the products (including canned or frozen commodities or products) thereof. No order issued pursuant to this section shall be effective as to cherries, apples, or cranberries for canning or freezing unless the Secretary of Agriculture determines, in addition to other required findings and determinations, that the issuance of such order is approved or favored by

processors who, during a representative period determined by the Secretary, have engaged in canning or freezing such commodity for market and have frozen or canned more than 50 per centum of the total volume of the commodity to be regulated which was canned or frozen within the production area, or marketed within the marketing area, defined in such order, during such representative period. No order issued pursuant to this section shall be applicable to peanuts produced in more than one of the following production areas: the Virginia-Carolina production area, the Southeast production area, and the Southwest production area. If the Secretary determines that the declared policy of this chapter will be better achieved thereby (i) the commodities of the same general class and used wholly or in part for the same purposes may be combined and treated as a single commodity and (ii) the portion of an agricultural commodity devoted to or marketed for a particular use or combination of uses, may be treated as a separate agricultural commodity. All agricultural commodities and products covered hereby shall be deemed specified herein for the purposes of subsections (6) and (7) of this section.

(3) Notice and hearing

Whenever the Secretary of Agriculture has reason to believe that the issuance of an order will tend to effectuate the declared policy of this chapter with respect to any commodity or product thereof specified in subsection (2) of this section, he shall give due notice of and an opportunity for a hearing upon a proposed order.

(4) Finding and issuance of order

After such notice and opportunity for hearing, the Secretary of Agriculture shall issue an order if he finds, and sets forth in such order, upon the evidence introduced at such hearing (in addition to such other findings as may be specifically required by this section) that the issuance of such order and all of the terms and conditions thereof will tend to effectuate the declared policy of this chapter with respect to such commodity.

(5) Milk and its products; terms and conditions of orders

In the case of milk and its products, orders issued pursuant to this section shall contain one or more of the following terms and conditions, and (except as provided in subsection (7) of this section) no others:

(A) Classifying milk in accordance with the form in which or the purpose for which it is used, and fixing, or providing a method for fixing, minimum prices for each such use classification which all handlers shall pay, and the time when payments shall be made, for milk purchased from producers or associations of producers. Such prices shall be uniform as to all handlers, subject only to adjustments for (1) volume, market, and production differentials customarily applied by the handlers subject to such order, (2) the grade or quality of the milk purchased, and (3) the locations at which delivery of such milk, or any use classification thereof, is made to such handlers:

(B) Providing:

(i) for the payment to all producers and associations of producers delivering milk to the same handler of uniform prices for all milk delivered by them: *Provided*, That, except in the case of orders covering milk products only, such provision is approved or favored by at least three-fourths of the producers who, during a representative period determined by the Secretary of Agriculture, have been engaged in the production for market of milk covered in such order or by producers who, during such representative period, have produced at least three-fourths of the volume of such milk produced for market during such period; the approval required hereunder shall be separate and apart from any other approval or disapproval provided for by this section; or

(ii) for the payment to all producers and associations of producers delivering milk to all handlers of uniform prices for all milk so delivered, irrespective of the uses made of such milk by the individual handler to whom it is delivered;

subject, in either case, only to adjustments for (a) volume, market, and production differentials customarily applied by the handlers subject to such order, (b) the grade or quality of the milk delivered, (c) the locations at which delivery of such milk is made, (d) a further adjustment to encourage seasonal adjustments in the production of milk through equitable apportionment of the total value of the milk purchased by any handler, or by all handlers, among producers on the basis of their marketings of milk during a representative period of time, which need not be limited to one year; (e) a provision providing for the accumulation and disbursement of a fund to encourage seasonal adjustments in the production of milk may be included in an order; and (f) a further adjustment, equitably to apportion the total value of milk purchased by all handlers among producers on the basis of their marketings of milk, which may be adjusted to reflect the utilization of producer milk by all handlers in any use classification or classifications, during a representative period of one to three years, which will be automatically updated each year. In the event a producer holding a base allocated under this clause (f) shall reduce his marketings, such reduction shall not adversely affect his history of production and marketing for the determination of future bases, or future updating of bases, except that an order may provide that, if a producer reduces his marketings below his base allocation in any one of more use classifications designated in the order, the amount of any such reduction shall be taken into account in determining future bases, or future updating of bases. Bases allocated to producers under this clause (f) may be transferable under an order on such terms and conditions, including those which will prevent bases taking on an unreasonable value, as are prescribed in the order by the Secretary of Agriculture. Provisions shall be made in order for the allocation of bases under this clause (f)—

(i) for the alleviation of hardship and inequity among producers; and

(ii) for providing bases for dairy farmers not delivering milk as producers under the order

upon becoming producers under the order who did not produce milk during any part of the representative period and these new producers shall within ninety days after the first regular delivery of milk at the price for the lowest use classification specified in such order be allocated a base which the Secretary determines proper after considering supply and demand conditions, the development of orderly and efficient marketing conditions and to the respective interests of producers under the order, all other dairy farmers and the consuming public. Producer bases so allocated shall for a period of not more than three years be reduced by not more than 20 per centum; and

(iii) dairy farmers not delivering milk as producers under the order upon becoming producers under the order by reason of a plant to which they are making deliveries becoming a pool plant under the order, by amendment or otherwise, shall be provided bases with respect to milk delivered under the order based on their past deliveries of milk on the some [1] basis as other producers under the order; and

(iv) such order may include such additional provisions as the Secretary deems appropriate in regard to the reentry of producers who have previously discontinued their dairy farm enterprise or transferred bases authorized under this clause (f); and

(v) notwithstanding any other provision of this chapter, dairy farmers not delivering milk as producers under the order, upon becoming producers under the order, shall within ninety days be provided with respect to milk delivered under the order, allocations based on their past deliveries of milk during the representative period from the production facilities from which they are delivering milk under the order on the same basis as producers under the order on the effective date of order provisions authorized under this clause (f): *Provided,* That bases shall be allocated only to a producer marketing milk from the production facilities from which he marketed milk during the representative period, except that in no event shall such allocation of base exceed the amount of milk actually delivered under such order.

The assignment of other source milk to various use classes shall be made without regard to whether an order contains provisions authorized under this clause (f). In the case of any producer who during any accounting period delivers a portion of his milk to persons not fully regulated by the order, provision shall be made for reducing the allocation of, or payment to be received by any such producer under this clause (f) to compensate for any marketings of milk to such other persons for such period or periods as necessary to insure equitable participation in marketings among all producers. Notwithstanding the provisions of subsection (12) of this section and the last sentence of subsection (19) of this section, order provisions under this clause (f) shall not be effective in any marketing order unless separately approved by producers in a referendum in which each individual producer shall have one vote and may be terminated separately whenever the Secretary makes a determination with respect to such provisions as is provided for the termination of an order in subsection (16)(B) of this section. Disapproval or termination of such order provisions shall not be considered disapproval of the order or of other terms of the order.

(C) In order to accomplish the purposes set forth in paragraphs (A) and (B) of this subsection, providing a method for making adjustments in payments, as among handlers (including producers who are also handlers), to the end that the total sums paid by each handler shall equal the value of the milk purchased by him at the prices fixed in accordance with paragraph (A) of this subsection.

(D) Providing that, in the case of all milk purchased by handlers from any producer who did not regularly sell milk during a period of 30 days next preceding the effective date of such order for consumption in the area covered thereby, payments to such producer, for the period beginning with the first regular delivery by such producer and continuing until the end of two full calendar months following the first day of the next succeeding calendar month, shall be made at the price for the lowest use classification specified in such order, subject to the adjustments specified in paragraph (B) of this subsection.

(E) Providing (i) except as to producers for whom such services are being rendered by a cooperative marketing association, qualified as provided in paragraph (F) of this subsection, for market information to producers and for the verification of weights, sampling, and testing of milk purchased from producers, and for making appropriate deductions therefor from payments to producers, and (ii) for assurance of, and security for, the payment by handlers for milk purchased.

(F) Nothing contained in this subsection is intended or shall be construed to prevent a cooperative marketing association qualified under the provisions of sections 291 and 292 of this title, engaged in making collective sales or marketing of milk or its products for the producers thereof, from blending the net proceeds of all of its sales in all markets in all use classifications, and making distribution thereof to its producers in accordance with the contract between the association and its producers: *Provided,* That it shall not sell milk or its products to any handler for use or consumption in any market at prices less than the prices fixed pursuant to paragraph (A) of this subsection for such milk.

(G) No marketing agreement or order applicable to milk and its products in any marketing area shall prohibit or in any manner limit, in the case of the products of milk, the marketing in that area of any milk or product thereof produced in any production area in the United States.

(H) Marketing orders applicable to milk and its products may be limited in application to milk used for manufacturing.

(I) Establishing or providing for the establishment of research and development projects, and advertising (excluding brand advertising), sales promotion, educational, and other programs designed to improve or promote the do-

[1] So in original, probably should read "same".

mestic marketing and consumption of milk and its products, to be financed by producers in a manner and at a rate specified in the order, on all producer milk under the order. Producer contributions under this subparagraph may be deducted from funds due producers in computing total pool value or otherwise computing total funds due producers and such deductions shall be in addition to the adjustments authorized by paragraph (B) of this subsection. Provision may be made in the order to exempt, or allow suitable adjustments or credits in connection with, milk on which a mandatory checkoff for advertising or marketing research is required under the authority of any State law. Such funds shall be paid to an agency organized by milk producers and producers' cooperative associations in such form and with such methods of operation as shall be specified in the order. Such agency may expend such funds for any of the purposes authorized by this subparagraph and may designate, employ, and allocate funds to persons and organizations engaged in such programs which meet the standards and qualifications specified in the order. All funds collected under this subparagraph shall be separately accounted for and shall be used only for the purposes for which they were collected. Programs authorized by this subparagraph may be either local or national in scope, or both, as provided in the order, but shall not be international. Order provisions under this subparagraph shall not become effective in any marketing order unless such provisions are approved by producers separately from other order provisions, in the same manner provided for the approval of marketing orders, and may be terminated separately whenever the Secretary makes a determination with respect to such provisions as is provided for the termination of an order in subsection (16)(B) of this section. Disapproval or termination of such order provisions shall not be considered disapproval of the order or of other terms of the order. Notwithstanding any other provision of this chapter, any producer against whose marketings any assessment is withheld or collected under the authority of this subparagraph, and who is not in favor of supporting the research and promotion programs, as provided for herein, shall have the right to demand and receive a refund of such assessment pursuant to the terms and conditions specified in the order.

(6) Other commodities; terms and conditions of orders

In the case of the agricultural commodities and the products thereof, other than milk and its products, specified in subsection (2) of this section orders issued pursuant to this section shall contain one or more of the following terms and conditions, and (except as provided in subdivision (7) of this section), no others:

(A) Limiting, or providing methods for the limitation of, the total quantity of any such commodity or product, or of any grade, size, or quality thereof, produced during any specified period or periods, which may be marketed in or transported to any or all markets in the current of interstate or foreign commerce or so as directly to burden, obstruct, or affect interstate or foreign commerce in such commodity or product thereof, during any specified period or periods by all handlers thereof.

(B) Allotting, or providing methods for allotting, the amount of such commodity or product, or any grade, size, or quality thereof, which each handler may purchase from or handle on behalf of any and all producers thereof, during any specified period or periods, under a uniform rule based upon the amounts sold by such producers in such prior period as the Secretary determines to be representative, or upon the current quantities available for sale by such producers, or both, to the end that the total quantity thereof to be purchased, or handled during any specified period or periods shall be apportioned equitably among producers.

(C) Allotting, or providing methods for allotting, the amount of any such commodity or product, or any grade, size, or quality thereof, which each handler may market in or transport to any or all markets in the current of interstate or foreign commerce or so as directly to burden, obstruct, or affect interstate of foreign commerce in such commodity or product thereof, under a uniform rule based upon the amounts which each such handler has available for current shipment, or upon the amounts shipped by each such handler in such prior period as the Secretary determines to be representative, or both, to the end that the total quantity of such commodity or product, or any grade, size, or quality thereof, to be marketed in or transported to any or all markets in the current of foreign commerce or so as directly to burden, obstruct, or affect interstate or foreign commerce in such commodity or product thereof, during any specified period or periods shall be equitably apportioned among all of the handlers thereof.

(D) Determining, or providing methods for determining, the existence and extent of the surplus of any such commodity or product, or of any grade, size, or quality thereof, and providing for the control and disposition of such surplus, and for equalizing the burden of such surplus elimination or control among the producers and handlers thereof.

(E) Establishing or providing for the establishment of reserve pools of any such commodity or product, or of any grade, size, or quality thereof, and providing for the equitable distribution of the net return derived from the sale thereof among the persons beneficially interested therein.

(F) Requiring or providing for the requirement of inspection of any such commodity or product produced during specified periods and marketed by handlers.

(G) In the case of hops and their products in addition to, or in lieu of, the foregoing terms and conditions, orders may contain one or more of the following:

(i) Limiting, or providing methods for the limitation of, the total quantity thereof, or of any grade, type, or variety thereof, produced during any specified period or periods, which all handlers may handle in the current of or so as directly to burden, obstruct, or affect interstate or foreign commerce in hops or any product thereof.

(ii) Apportioning, or providing methods for apportioning, the total quantity of hops of

the production of the then current calendar year permitted to be handled equitably among all producers in the production area to which the order applies upon the basis of one or more or a combination of the following: The total quantity of hops available or estimated will become available for market by each producer from his production during such period; the normal production of the acreage of hops operated by each producer during such period upon the basis of the number of acres of hops in production, and the average yield of that acreage during such period as the Secretary determines to be representative, with adjustments determined by the Secretary to be proper for age of plantings or abnormal conditions affecting yield; such normal production or historical record of any acreage for which data as to yield of hops are not available or which had no yield during such period shall be determined by the Secretary on the basis of the yields of other acreage of hops of similar characteristics as to productivity, subject to adjustment as just provided for.

(iii) Allotting, or providing methods for allotting, the quantity of hops which any handler may handle so that the allotment fixed for that handler shall be limited to the quantity of hops apportioned under preceding clause (ii) to each respective producer of hops; such allotment shall constitute an allotment fixed for that handler within the meaning of subsection (5) of section 608a of this title.

(H) Providing a method for fixing the size, capacity, weight, dimensions, or pack of the container, or containers, which may be used in the packaging, transportation, sale, shipment, or handling of any fresh or dried fruits, vegetables, or tree nuts: *Provided, however,* That no action taken hereunder shall conflict with the Standard Containers Act of 1916 (15 U.S.C. 251-256) and the Standard Containers Act of 1928 (15 U.S.C. 257-257i).

(I) Establishing or providing for the establishment of production research, marketing research and development projects designed to assist, improve, or promote the marketing, distribution, and consumption or efficient production of any such commodity or product, the expense of such projects to be paid from funds collected pursuant to the marketing order: *Provided,* That with respect to orders applicable to almonds, California-grown peaches, cherries, papayas, carrots, citrus fruits, onions, Tokay grapes, pears, dates, plums, nectarines, celery, sweet corn, limes, olives, pecans, avocados, apples or tomatoes, such projects may provide for any form of marketing promotion including paid advertising and with respect to almonds and Florida Indian River grapefruit may provide for crediting the pro rata expense assessment obligations of a handler with all or any portion of his direct expenditures for such marketing promotion including paid advertising as may be authorized by the order and when the handling of any commodity for canning or freezing is regulated, then any such projects may also deal with the commodity or its products in canned or frozen form: *Provided further,* That the inclusion in a search and marketing promotion, including paid advertising, shall not be deemed to preclude, preempt or supersede any such provisions in any State program covering the same commodity.

(J) In the case of pears for canning or freezing, any order for a production area encompassing territory within two or more States or portions thereof shall provide that the grade, size, quality, maturity, and inspection regulation under the order applicable to pears grown within any such State or portion thereof may be recommended to the Secretary by the agency established to administer the order only if a majority of the representatives from that State on such agency concur in the recommendation each year.

(7) Terms common to all orders

In the case of the agricultural commodities and the products thereof specified in subsection (2) of this section orders shall contain one or more of the following terms and conditions:

(A) Prohibiting unfair methods of competition and unfair trade practices in the handling thereof.

(B) Providing that (except for milk and cream to be sold for consumption in fluid form) such commodity or product thereof, or any grade, size, or quality thereof shall be sold by the handlers thereof only at prices filed by such handlers in the manner provided in such order.

(C) Providing for the selection by the Secretary of Agriculture, or a method for the selection, of an agency or agencies and defining their powers and duties, which shall include only the powers:

(i) To administer such order in accordance with its terms and provisions;

(ii) To make rules and regulations to effectuate the terms and provisions of such order;

(iii) To receive, investigate, and report to the Secretary of Agriculture complaints of violations of such order; and

(iv) To recommend to the Secretary of Agriculture amendments to such order.

No person acting as a member of an agency established pursuant to this paragraph shall be deemed to be acting in an official capacity, within the meaning of section 610(g) of this title, unless such person receives compensation for his personal services from funds of the United States. There shall be included in the membership of any agency selected to administer a marketing order applicable to grapefruit or pears for canning or freezing one or more representatives of processors of the commodity specified in such order: *Provided,* That in a marketing order applicable to pears for canning or freezing the representation of processors and producers on such agency shall be equal.

(D) Incidental to, and not inconsistent with, the terms and conditions specified in subsections (5) to (7) of this section and necessary to effectuate the other provisions of such order.

(8) Orders with marketing agreement

Except as provided in subsection (9) of this section, no order issued pursuant to this section shall become effective until the handlers (excluding cooperative associations of producers who are not engaged in processing, distributing, or shipping the commodity or product thereof covered by such order) of not less than 50 per

centum of the volume of the commodity or product thereof covered by such order which is produced or marketed within the production or marketing area defined in such order have signed a marketing agreement, entered into pursuant to section 608b of this title, which regulates the handling of such commodity or product in the same manner as such order, except that as to citrus fruits produced in any area producing what is known as California citrus fruits no order issued pursuant to this subsection shall become effective until the handlers of not less than 80 per centum of the volume of such commodity or product thereof covered by such order have signed such a marketing agreement: *Provided,* That no order issued pursuant to this subsection shall be effective unless the Secretary of Agriculture determines that the issuance of such order is approved or favored:

(A) By at least two-thirds of the producers who (except that as to citrus fruits produced in any area producing what is known as California citrus fruits said order must be approved or favored by three-fourths of the producers), during a representative period determined by the Secretary, have been engaged, within the production area specified in such marketing agreement or order, in the production for market of the commodity specified therein, or who, during such representative period, have been engaged in the production of such commodity for sale in the marketing area specified in such marketing agreement, or order, or

(B) By producers who, during such representative period, have produced for market at least two-thirds of the volume of such commodity produced for market within the production area specified in such marketing agreement or order, or who, during such representative period, have produced at least two-thirds of the volume of such commodity sold within the marketing area specified in such marketing agreement or order.

(9) Orders with or without marketing agreement

Any order issued pursuant to this section shall become effective in the event that, notwithstanding the refusal or failure of handlers (excluding cooperative associations of producers who are not engaged in processing, distributing, or shipping the commodity or product thereof covered by such order) of more than 50 per centum of the volume of the commodity or product thereof (except that as to citrus fruits produced in any area producing what is known as California citrus fruits said per centum shall be 80 per centum) covered by such order which is produced or marketed within the production or marketing area defined in such order to sign a marketing agreement relating to such commodity or product thereof, on which a hearing has been held, the Secretary of Agriculture determines;

(A) That the refusal or failure to sign a marketing agreement (upon which a hearing has been held) by the handlers (excluding cooperative associations of producers who are not engaged in processing, distributing, or shipping the commodity or product thereof covered by such order) of more than 50 per centum of the volume of the commodity or product thereof (except that as to citrus fruits produced in any area producing what is known as California citrus fruits said per centum shall be 80 per centum) specified therein which is produced or marketed within the production or marketing area specified therein tends to prevent the effectuation of the declared policy of this chapter with respect to such commodity or product, and

(B) That the issuance of such order is the only practical means of advancing the interests of the producers of such commodity pursuant to the declared policy, and is approved or favored:

(i) By at least two-thirds of the producers (except that as to citrus fruits produced in any area producing what is known as California citrus fruits said order must be approved or favored by three-fourths of the producers) who, during a representative period determined by the Secretary, have been engaged, within the production area specified in such marketing agreement or order, in the production for market of the commodity specified therein, or who, during such representative period, have been engaged in the production of such commodity for sale in the marketing area specified in such marketing agreement, or order, or

(ii) By producers who, during such representative period, have produced for market at least two-thirds of the volume of such commodity produced for market within the production area specified in such marketing agreement or order, or who, during such representative period, have produced at least two-thirds of the volume of such commodity sold within the marketing area specified in such marketing agreement or order.

(10) Manner of regulation and applicability

No order shall be issued under this section unless it regulates the handling of the commodity or product covered thereby in the same manner as, and is made applicable only to persons in the respective classes of industrial or commercial activity specified in, a marketing agreement upon which a hearing has been held. No order shall be issued under this chapter prohibiting, regulating, or restricting the advertising of any commodity or product covered thereby, nor shall any marketing agreement contain any provision prohibiting, regulating, or restricting the advertising of any commodity, or product covered by such marketing agreement.

(11) Regional application

(A) No order shall be issued under this section which is applicable to all production areas or marketing areas, or both, of any commodity or product thereof unless the Secretary finds that the issuance of several orders applicable to the respective regional production areas or regional marketing areas, or both, as the case may be, of the commodity or product would not effectively carry out the declared policy of this chapter.

(B) Except in the case of milk and its products, orders issued under this section shall be limited in their application to the smallest regional production areas or regional marketing areas, or both, as the case may be, which the Secretary finds practicable, consistently with carrying out such declared policy.

(C) All orders issued under this section which are applicable to the same commodity or prod-

uct thereof shall, so far as practicable, prescribe such different terms, applicable to different production areas and marketing areas, as the Secretary finds necessary to give due recognition to the differences in production and marketing of such commodity or product in such areas.

(12) Approval of cooperative association as approval of producers

Whenever, pursuant to the provisions of this section, the Secretary is required to determine the approval or disapproval of producers with respect to the issuance of any order, or any term or condition thereof, or the termination thereof, the Secretary shall consider the approval or disapproval by any cooperative association of producers, bona fide engaged in marketing the commodity or product thereof covered by such order, or in rendering services for or advancing the interests of the producers of such commodity, as the approval or disapproval of the producers who are members of, stockholders in, or under contract with, such cooperative association of producers.

(13) Retailer and producer exemption

(A) No order issued under subsection (9) of this section shall be applicable to any person who sells agricultural commodities or products thereof at retail in his capacity as such retailer, except to a retailer in his capacity as a retailer of milk and its products.

(B) No order issued under this chapter shall be applicable to any producer in his capacity as a producer.

(14) Violation of order; penalty

Any handler subject to an order issued under this section, or any officer, director, agent, or employee of such handler, who violates any provision of such order (other than a provision calling for payment of a pro rata share of expenses) shall, on conviction, be fined not less than $50 or more than $500 for each such violation, and each day during which such violation continues shall be deemed a separate violation: *Provided,* That if the court finds that a petition pursuant to subsection (15) of this section was filed and prosecuted by the defendant in good faith and not for delay, no penalty shall be imposed under this subsection for such violations as occurred between the date upon which the defendant's petition was filed with the Secretary, and the date upon which notice of the Secretary's ruling thereon was given to the defendant in accordance with regulations prescribed pursuant to subsection (15) of this section.

(15) Petition by handler for modification of order or exemption; court review of ruling of Secretary

(A) Any handler subject to an order may file a written petition with the Secretary of Agriculture, stating that any such order or any provision of any such order or any obligation imposed in connection therewith is not in accordance with law and praying for a modification thereof or to be exempted therefrom. He shall thereupon be given an opportunity for a hearing upon such petition, in accordance with regulations made by the Secretary of Agriculture, with the approval of the President. After such hearing, the Secretary shall make a ruling upon the prayer of such petition which shall be final, if in accordance with law.

(B) The District Courts of the United States in any district in which such handler is an inhabitant, or has his principal place of business, are vested with jurisdiction in equity to review such ruling, provided a bill in equity for that purpose is filed within twenty days from the date of the entry of such ruling. Service of process in such proceedings may be had upon the Secretary by delivering to him a copy of the bill of complaint. If the court determines that such ruling is not in accordance with law, it shall remand such proceedings to the Secretary with directions either (1) to make such ruling as the court shall determine to be in accordance with law, or (2) to take such further proceedings as, in its opinion, the law requires. The pendency of proceedings instituted pursuant to this subsection (15) shall not impede, hinder, or delay the United States or the Secretary of Agriculture from obtaining relief pursuant to section 608a(6) of this title. Any proceedings brought pursuant to section 608a(6) of this title (except where brought by way of counterclaim in proceedings instituted pursuant to this subsection (15)) shall abate whenever a final decree has been rendered in proceedings between the same parties, and covering the same subject matter, instituted pursuant to this subsection (15).

(16) Termination of orders and marketing agreements

(A) The Secretary of Agriculture shall, whenever he finds that any order issued under this section, or any provision thereof, obstructs or does not tend to effectuate the declared policy of this chapter, terminate or suspend the operation of such order or such provision thereof.

(B) The Secretary shall terminate any marketing agreement entered into under section 608b of this title, or order issued under this section, at the end of the then current marketing period for such commodity, specified in such marketing agreement or order, whenever he finds that such termination is favored by a majority of the producers who, during a representative period determined by the Secretary, have been engaged in the production for market of the commodity specified in such marketing agreement or order, within the production area specified in such marketing agreement or order, or who, during such representative period, have been engaged in the production of such commodity for sale within the marketing area specified in such marketing agreement or order: *Provided,* That such majority have, during such representative period, produced for market more than 50 per centum of the volume of such commodity produced for market within the production area specified in such marketing agreement or order, or have, during such representative period, produced more than 50 per centum of the volume of such commodity sold in the marketing area specified in such marketing agreement or order, but such termination shall be effective only if announced on or before such date (prior to the end of the then current marketing period) as may be specified in such marketing agreement or order.

(C) The termination or suspension of any order or amendment thereto or provision thereof, shall not be considered an order within the meaning of this section.

(17) Provisions applicable to amendments

The provisions of this section and section 608d of this title applicable to orders shall be applicable to amendments to orders: *Provided,* That notice of a hearing upon a proposed amendment to any order issued pursuant to this section, given not less than three days prior to the date fixed for such hearing, shall be deemed due notice thereof: *Provided further,* That if one-third or more of the producers as defined in a milk order apply in writing for a hearing on a proposed amendment of such order, the Secretary shall call such a hearing if the proposed amendment is one that may legally be made to such order. Subsection (12) of this section shall not be construed to permit any cooperative to act for its members in an application for a hearing under the foregoing proviso and nothing in such proviso shall be construed to preclude the Secretary from calling an amendment hearing as provided in subsection (3) of this section. The Secretary shall not be required to call a hearing on any proposed amendment to an order in response to an application for a hearing on such proposed amendment if the application requesting the hearing is received by the Secretary within ninety days after the date on which the Secretary has announced his decision on a previously proposed amendment to such order and the two proposed amendments are essentially the same.

(18) Milk prices

The Secretary of Agriculture, prior to prescribing any term in any marketing agreement or order, or amendment thereto, relating to milk or its products, if such term is to fix minimum prices to be paid to producers or associations of producers, or prior to modifying the price fixed in any such term, shall ascertain the parity prices of such commodities. The prices which it is declared to be the policy of Congress to establish in section 602 of this title shall, for the purposes of such agreement, order, or amendment, be adjusted to reflect the price of feeds, the available supplies of feeds, and other economic conditions which affect market supply and demand for milk or its products in the marketing area or, in the case of orders applying only to manufacturing milk, the production area to which the contemplated marketing agreement, order, or amendment relates. Whenever the Secretary finds, upon the basis of the evidence adduced at the hearing required by section 608b of this title or this section, as the case may be, that the parity prices of such commodities are not reasonable in view of the price of feeds, the available supplies of feeds, and other economic conditions which affect market supply and demand for milk and its products in the marketing area or, in the case of orders applying only to manufacturing milk, the production area to which the contemplated agreement, order, or amendment relates, he shall fix such prices as he finds will reflect such factors, insure a sufficient quantity of pure and wholesome milk to meet current needs and further to assure a level of farm income adequate to maintain productive capacity sufficient to meet anticipated future needs, and be in the public interest. Thereafter, as the Secretary finds necessary on account of changed circumstances, he shall, after due notice and opportunity for hearing, make adjustments in such prices.

(19) Producer or processor referendum for approving order

For the purpose of ascertaining whether the issuance of an order is approved or favored by producers or processors, as required under the applicable provisions of this chapter, the Secretary may conduct a referendum among producers or processors and in the case of an order other than an amendatory order shall do so. The requirements of approval or favor under any such provision shall be held to be complied with if, of the total number of producers or processors, or the total volume of production, as the case may be, represented in such referendum, the percentage approving or favoring is equal to or in excess of the percentage required under such provision. The terms and conditions of the proposed order shall be described by the Secretary in the ballot used in the conduct of the referendum. The nature, content, or extent of such description shall not be a basis for attacking the legality of the order or any action relating thereto. Nothing in this subsection shall be construed as limiting representation by cooperative associations as provided in subsection (12) of this section. For the purpose of ascertaining whether the issuance of an order applicable to pears for canning or freezing is approved or favored by producers as required under the applicable provisions of this chapter, the Secretary shall conduct a referendum among producers in each State in which pears for canning or freezing are proposed to be included within the provisions of such marketing order and the requirements of approval or favor under any such provisions applicable to pears for canning or freezing shall be held to be complied with if, of the total number of producers, or the total volume of production, as the case may be, represented in such referendum, the percentage approving or favoring is equal to or in excess of 66⅔ per centum except that in the event that pear producers in any State fail to approve or favor the issuance of any such marketing order, it shall not be made effective in such State.

(May 12, 1933, ch. 25, title I, § 8c, as added Aug. 24, 1935, ch. 641, § 5, 49 Stat. 753, and amended June 25, 1936, ch. 804, 49 Stat. 1921; June 3, 1937, ch. 296, §§ 1, 2(d), (e), (f), (k), (*l*), (m), 50 Stat. 246, 247; Aug. 5, 1937, ch. 567, 50 Stat. 563; Apr. 13, 1938, ch. 143, §§ 1, 2, 52 Stat. 215; May 31, 1939, ch. 157, 53 Stat. 793; Feb. 10, 1942, ch. 52, §§ 2, 3, 56 Stat. 85; 1947 Reorg. Plan No. 1, § 102, eff. July 1, 1947, 12 F.R. 4534, 61 Stat. 951; Aug. 1, 1947, ch. 425, §§ 2, 4, 61 Stat. 707, 710; July 3, 1948, ch. 827, title III, § 302(b), (c), 62 Stat. 1258; June 29, 1949, ch. 273, 63 Stat. 282; Aug. 28, 1954, ch. 1041, title IV, § 401(b)-(d), 68 Stat. 907; Aug. 8, 1961, Pub. L. 87-128, title I, § 141(3), (4), 75 Stat. 304, 305; Sept. 27, 1962, Pub. L. 87-703, title IV, § 403, 76 Stat. 632; Nov. 3, 1965, Pub. L. 89-321, title I, §§ 101, 102, 79 Stat. 1187; Nov. 8, 1965, Pub. L. 89-330, § 1(b), 79 Stat. 1270; Feb. 20, 1970, Pub. L. 91-196, § 1, 84 Stat. 14; June 25, 1970, Pub. L. 91-292, § 1(2), 84 Stat. 333; July 18, 1970, Pub. L. 91-341, 84 Stat. 438; July 31, 1970, Pub. L. 91-363, 84 Stat. 687; Aug. 18, 1970, Pub. L. 91-384,

84 Stat. 827; Nov. 25, 1970, Pub. L. 91-522, 84 Stat. 1357; Nov. 30, 1970, Pub. L. 91-524, title II, § 201(a), 84 Stat. 1359; Nov. 30, 1970, Pub. L. 91-524, title II, § 201(a), (f), 84 Stat. 1359, as amended Aug. 10, 1973, Pub. L. 93-86, § 1(2)(B), 87 Stat. 222; Jan. 11, 1971, Pub. L. 91-670, title I, § 101, title II, § 201, 84 Stat. 2040, 2041; Aug. 13, 1971, Pub. L. 92-120, 85 Stat. 340; Feb. 15, 1972, Pub. L. 92-233, 86 Stat. 39; Oct. 6, 1972, Pub. L. 92-466, 86 Stat. 780; Dec. 29, 1973, Pub. L. 93-230, 87 Stat. 945.)

REFERENCES IN TEXT

The Naval Stores Act, referred to in subsec. (2), is act Mar. 3, 1923, ch. 217, 42 Stat. 1435, which is classified generally to chapter 4 (§ 91 et seq.) of this title. For complete classification of this Act to the Code, see Tables volume.

The Standard Containers Act of 1916 and the Standard Containers Act of 1928, referred to in subsec. (6)(H), are act Aug. 31, 1916, ch. 426, 39 Stat. 673, as amended, and act May 21, 1928, ch. 664, 45 Stat. 685, as amended, respectively, and were repealed by Pub. L. 90-628, § 1(a), (b), Oct. 22, 1968, 82 Stat. 1320.

CODIFICATION

The words "(including the district court of the United States for the District of Columbia)" in subsec. (15)(B) following "The District Courts of the United States" have been deleted as superfluous in view of section 132(a) of Title 28, Judiciary and Judicial Procedure which states that "There should be in each judicial district a district court which shall be a court of record known as the United States District Court for the district", and section 88 of said Title 28 which states that "The District of Columbia constitutes one judicial district."

Phrase "with the approval of the President," following "Secretary of Agriculture" in opening par. of subsec. (9) of this section was omitted on the authority of 1947 Reorg. Plan No. 1, set out in the Appendix to Title 5, Government Organization and Employees, which abolished the function of the President with respect to approving determinations of the Secretary of Agriculture in connection with agricultural marketing orders under this section.

AMENDMENTS

1973—Subsec. (6)(I). Pub. L. 93-230 inserted "and Florida Indian River grapefruit" after "with respect to almonds".

Subsec. (17). Pub. L. 91-524, § 201(f)(1), as added by Pub. L. 93-86, added provisions governing procedures when one-third or more of producers apply in writing for a hearing on a proposed amendment of an order, prohibiting any construction of subsec. (12) in a way which might permit cooperatives to act for their members in applying for hearings, and excusing the Secretary from the requirement of having to call a hearing on proposed amendments to an order in response to an application for such a hearing when the application for such a hearing is received by the Secretary within ninety days after the date on which the Secretary has announced his decision on a previously proposed amendment to such order and the two proposed amendments are essentially the same.

Subsec. (18). Pub. L. 91-524, § 201(f)(2), as added by Pub. L. 93-86 inserted "to meet current needs and further to assure a level of farm income adequate to maintain productive capacity sufficient to meet anticipated future needs" following "insure a sufficient quantity of pure and wholesome milk".

1972—Subsec. (2). Pub. L. 92-233 added potatoes for canning, freezing or other processing to the agricultural commodities excluded from the categories of commodities which the Secretary may regulate. The amendment served to make permanent the temporary exemption first inserted by Pub. L. 91-196. See 1970 Amendment Note and Effective Date of 1970 Amendment Note.

Subsec. (2)(A); Pub. L. 92-466, § 1(1), inserted "pears," following "except canned or frozen" and "canning or freezing other than".

Subsec. (6)(I). Pub. L. 92-466, § 1(2), deleted "fresh" preceding "pears" and provided that when the handling of any commodity for canning or freezing is regulated, then any projects may also deal with the commodity or its products in canned or frozen form.

Subsec. (6)(J). Pub. L. 92-466, § 1(5), added par. (J).

Subsec. (7)(C). Pub. L. 92-466, § 1(3), inserted "or pears" following "marketing order applicable to grapefruit" and added proviso that in a marketing order applicable to pears for canning or freezing the representation of processors and producers on the agency shall be equal.

Subsec. (19). Pub. L. 92-466, § 1(4), added provision respecting producer or processor referendum for approving order applicable to pears for canning or freezing.

1971—Subsec. (5)(I). Pub. L. 91-670, § 101, added par. (I).

Subsec. (6)(I). Pub. L. 92-120 inserted reference to "California-grown peaches" in the proviso.

Pub. L. 91-670, § 201, inserted reference to "tomatoes" in the proviso.

1970—Subsec. (2). Pub. L. 91-196 added potatoes for canning, freezing or other processing to the category of agricultural commodities excluded from the Secretary's power to issue orders to regulate the handling of such commodities.

Subsec. (2)(A). Pub. L. 91-341 made provision for marketing orders for apples produced in Colorado, Utah, New Mexico, Illinois and Ohio.

Subsec. (5)(B). Pub. L. 91-524 retained and separately stated the existing authority for base-surplus or base-excess provisions in milk marketing orders in cl. (d), clarified and reaffirmed, in cl. (e), the authority for plans under which leveling of spring and fall production is encouraged by withholding from sums paid for milk in the spring and subsequently paying the same sums to producers in the fall, and, in cl. (f), extended the authority for Class I Base Plans, provided for a representative Class I base period of one to three years to be automatically updated each year, added provisions to automatically keep the total of bases closely related to changing levels of market utilization, provided authorization for transfers of Class I bases on such terms and conditions as prescribed in the order by the Secretary, added authority to make provision in the order for the alleviation of hardship and inequity among producers including abnormally low production during a base forming period due to circumstances beyond his control, operation during part but not all of a base period, acts of God, and reduced marketing due to diseases, pesticides, residues, and condemnation of milk, and removed provision under which the participation of new producers in the market's Class I sales was confined to increases in such sales with defined exceptions.

Subsec. (6)(I). Pub. L. 91-522 in first proviso added applicability to almonds and provisions authorizing with respect to almonds the crediting of the pro rata expense assessment obligations of a handler with all or any portion of his direct expenditures for marketing promotion including paid advertising as authorized by the order, and in second proviso added provisions relating to marketing promotion, including paid advertising, in Federal marketing orders.

Pub. L. 91-384 added "papayas," following "applicable to cherries,".

Pub. L. 91-363 substituted "avocados, or apples" for "or avocados" in the proviso.

Subsec. (6)(I). Pub. L. 91-292 authorized the establishment of production research, added efficient production to the enumeration of aims to be served by established projects, and added proviso that the inclusion in a Federal marketing order of provisions for research not be deemed to preclude, preempt, or super-

sede research provisions in any State program covering the same commodity.

1965—Subsec. (5). Pub. L. 89-321, §§ 101, 102, inserted", which may be adjusted to reflect sales of such milk by any handler or by all handlers in any classification or classifications," before "during a representative period of time" in clause (d) of par. (B) and, following "representative period of time", added "which need not be limited to one year" in completion of the first sentence of clause (d) as well as all the remaining sentences in completion of clause (d), and added par. (H).

Subsec. (6)(I). Pub. L. 89-330 inserted "carrots, citrus fruits, onions, Tokay grapes, fresh pears, dates, plums, nectarines, celery, sweet corn, limes, olives, pecans, or avocados" in the proviso.

Subsec. (18). Pub. L. 89-321, § 102, inserted "or, in the case of orders applying only to manufacturing milk, the production area" following "marketing area" wherever occurring.

1962—Subsec. (6)(I). Pub. L. 87-703 added the cherry marketing order provisions for advertising.

1961—Subsec. (2). Pub. L. 87-128, § 141(3), designated existing provisions as par. (A), included in the exception provision thereof cherries, apples, and cranberries, substituted therein "Idaho, New York, Michigan, Maryland, New Jersey, Indiana, California, Maine, Vermont, New Hampshire, Rhode Island, Massachusetts, and Connecticut, and not including fruits for canning or freezing other than olives, grapefruit, cherries, cranberries, and apples produced in the States named above except Washington, Oregon, and Idaho)" for "and Idaho, and not including fruits, other than olives and grapefruit, for canning or freezing)", deleted "soybeans" preceding ", hops, honeybees", and added par. (B) and the provisions respecting the effectiveness of orders as to cherries, apples and cranberries for canning or freezing, the applicability of orders to peanuts, the treatment of commodities as single commodities and separate agricultural commodities, and the deeming of the covered agricultural commodities and products as specified in the subsection.

Subsec. (19). Pub. L. 87-128, § 141(4), provided for processor referendum for approving order, required referendum in case of an order other than an amendatory order, and a description of the terms and conditions of the proposed order in the ballot used in the conduct of the referendum, and prohibited the use of such description as a basis for attacking legality of orders or any action relating thereto.

1954—Subsec. (2). Act Aug. 28, 1954, § 401(b), made grapefruit for canning and freezing (but not the canned or frozen product) subject to its provisions, and added proviso.

Subsec. (6). Act Aug. 28, 1954, § 401(c), brought within its scope all agricultural commodities specified in subsec. (2) of this section, and added pars. (H) and (I).

Subsec. (7)(C). Act Aug. 28, 1954, § 401(d), provided for the appointment of representatives from the grapefruit for canning processors.

1949—Subsecs. (2) and (6). Act June 29, 1949, made section applicable to filberts and almonds.

1948—Subsec. (17). Act July 3, 1948, § 302(c), struck out "section 608e of this title" which has been repealed.

Subsec. (18). Act July 3, 1948, § 302(b), made the definition of "parity" conform to the definition stated in section 1301(a)(1) of this title.

1947—Subsec. (2). Act Aug. 1, 1947, inserted "or freezing" after "canning" in two places.

Subsec. (6). Act Aug. 1, 1947, in opening par., inserted "or freezing" after "canning" in two places, reenacted pars. (A) to (E) without change, inserted par. (F), redesignated former par. (F) as "(G)" and reenacted such par. without further change.

1942—Subsec. (6), opening par. Act Feb. 10, 1942, § 2, inserted "and their products" immediately after "hops".

Subsec. (6)(F). Act Feb. 10, 1942, § 3, added subsec. (6)(f).

1939—Subsecs. (2), (6). Act May 31, 1939, amended Act June 3, 1937, § 2, by adding subsection (m) thereto, which in turn amended subsecs. (2) and (6) of this section.

1938—Subsec. (2). Act Apr. 13, 1938, § 1, inserted "hops" after "soybeans".

Subsec. (6). Act Apr. 13, 1938, § 2, inserted "hops" after "soybeans and their products".

1937—Subsec. (2). Act Aug. 5, 1937, amended act June 3, 1937, by adding thereto subsec. (k), which in turn amended subsec. (2) by inserting after "except the products of naval stores" the words "and the products of honeybees" and after "soybeans" the word ", honeybees".

Subsec. (5)(B)(d). Act June 3, 1937, § 2(d), substituted "marketings" for "production".

Subsec. (6). Act Aug. 5, 1937, amended act June 3, 1937, by adding subsec. (*l*), which in turn amended subsec. (6) by inserting after "soybeans and their products," the word "honeybees".

Subsec. (6)(B). Act June 3, 1937, § 2(e), struck out "produced or" and "production or sales of" and inserted in lieu thereof "quantities available for sale by".

Subsecs. (18) and (19). Act June 3, 1937, § 2(f), added subsecs. (18) and (19). See note set out under section 601 of this title.

1936—Act June 25, 1936, provided that the Supreme Court of the District of Columbia should thereafter be known as the "district court of the United States for the District of Columbia".

1935—Section added to the Agricultural Adjustment Act by act Aug. 24, 1935, which also struck out former section 608(3) of this title.

EFFECTIVE DATE OF 1970 AMENDMENT

The limited effective period beginning Feb. 20, 1970 and ending two years after such date for the amendment made by Pub. L. 91-196 was removed as a result of the enactment of Pub. L. 92-233, Feb. 15, 1972, 86 Stat. 39, which made an amendment to the section identical to that made by the earlier Pub. L. 91-196 but without a time limit on such amendment of the type which had limited the duration of such earlier Pub. L. 91-196 amendment.

EFFECTIVE DATE OF 1948 AMENDMENT

Amendment of section by act July 3, 1948, effective Jan. 1, 1950, see note set out under section 1301 of this title.

TERMINATION OF 1970 AMENDMENT

Section 201(e) of Pub. L. 91-524, as amended by Pub. L. 93-86, § 1(2)(A), Aug. 10, 1973, 87 Stat. 222, provided that: "The provisions of this section [amending subsec. (5)(B) of this section] shall not be effective after December 31, 1977 except with respect to orders providing for Class I base plans issued prior to such date, but in no event shall any order so issued extend or be effective beyond December 31, 1980."

TERMINATION OF 1965 AMENDMENTS; REVERSION OF STATUS OF PRODUCER HANDLERS OF MILK TO PRE-AMENDMENT STATUS

Sections 103 and 104 of Pub. L. 89-321, as amended by Pub. L. 90-559, § 1(3), Oct. 11, 1968, 82 Stat. 996, provided that:

"Sec. 103. The provisions of this title [amending subsecs. (5) and (18) of this section] shall not be effective after December 31, 1970.

"Sec. 104. The legal status of producer handlers of milk under the provisions of the Agricultural Adjustment Act, as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, as amended, shall be the same subsequent to the adoption of the amendments made by this title [amending subsecs. (5) and (18) of this section] as it was prior thereto."

SHORT TITLE

Section 1 of Pub. L. 89-321 provided: "That this Act [enacting sections 1305, 1306, 1316, 1344b, 1379, 1446a-

1, and 1838 of this title, amending this section and sections 1301, 1314b, 1332, 1333, 1334, 1335, 1339, 1339a, 1339c, 1340, 1346, 1348, 1350, 1353, 1374, 1379b, 1379c, 1379d, 1379e, 1379g, 1379i, 1423, 1427, 1428, 1444, 1445a, 1782, and 1339, 1379c, and 1427 notes of this title and section 590p of Title 16, repealing sections 1801 to 1816, 1821 to 1824, 1831, and 1832 to 1837 of this title, and enacting provisions set out as notes under this section and sections 1282, 1301, 1332, 1334, 1339, 1350, 1359, 1379b, 1379c, 1379d, 1379i, 1428, 1441, and 1445a of this title and section 590p of Title 16] may be cited as the 'Food and Agriculture Act of 1965'."

RETENTION OF STATUS OF PRODUCER HANDLERS OF MILK AT PRE-1973 AMENDMENT STATUS

Section 206 of Pub. L. 91-524, as added Pub. L. 93-86, § 1(6), Aug. 10, 1973, 87 Stat. 224, and amended Pub. L. 93-125, § 1(a)(iii), Oct. 18, 1973, 87 Stat. 450, provided that: "The legal status of producer handlers of milk under the provisions of the Agricultural Adjustment Act, as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, as amended, shall be the same subsequent to the adoption of the amendments made by the Agriculture and Consumer Protection Act of 1973 [amending subsecs. (17) and (18) of this section and sections 450*l*, 1446(c) and 1446a of this title] as it was prior thereto."

RETENTION OF STATUS OF PRODUCER HANDLERS OF MILK AT PRE-1970 AMENDMENT STATUS

Section 201(b) of Pub. L. 91-524 provided that: "The legal status of producer handlers of milk under the provisions of the Agricultural Adjustment Act, as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, as amended, shall be the same subsequent to the adoption of the amendments made by this Act [amending subsec. (5)(B) of this section] as it was prior thereto."

RATIFICATION, LEGALIZATION, CONFIRMATION, AND EXTENSION OF CLASS I BASE PLAN PROVISIONS IN MARKETING ORDERS ISSUED PRIOR TO NOV. 30, 1970

Section 201(c) of Pub. L. 91-524 provided that: "Nothing in subsection (a) of this section 201 [amending subsec. (5)(B) of this section] shall be construed as invalidating any class I base plan provisions of any marketing order previously issued by the Secretary of Agriculture pursuant to authority contained in the Food and Agriculture Act of 1965 (79 Stat. 1187), but such provisions are expressly ratified, legalized, and confirmed and may be extended through and including December 31, 1971."

REAFFIRMATION OF SUBSEC. (5)(G) OF THIS SECTION

Section 201(d) of Pub. L. 91-524 provided that: "It is not intended that existing law be in any way altered, rescinded, or amended with respect to section 8c(5)(G) of the Agricultural Adjustment Act, as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, as amended [subsec. (5)(G) of this section], and such section 8c(5)(G) is fully reaffirmed."

VALIDITY OF SECTION AFFIRMED

Act June 3, 1937, affirmed and validated, and reenacted without change the provisions of this section, except for the amendments to subsections (5)(B)(d) and (6)(B) by section 2 of the act, and the addition of subsections (18) and (19) by said section 2. See note to section 601 of this title.

CROSS REFERENCES

Anti-hog-cholera serum and hog-cholera virus, marketing agreements relating to, see section 853 of this title.

Anti-hog-cholera serum and hog-cholera virus provisions, provisions of section as applicable to, see section 855 of this title.

Referendum on quotas established for tobacco, corn, wheat, cotton, and rice, see sections 1312, 1336, 1347, and 1354 of this title.

FEDERAL RULES OF CIVIL PROCEDURE

One form of action, see rule 2, Title 28, Appendix, Judiciary and Judicial Procedure.

Process, see rule 4.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 602, 608e-1, 610, 672, 673, 853, 855, 1392 of this title.

§ 608c–1. Repealed. June 29, 1945, ch. 196, 59 Stat. 263

Section, acts Apr. 13, 1938, ch. 143, § 3, 52 Stat. 215; May 26, 1939, ch. 150, 53 Stat. 782; Feb. 10, 1942, ch. 52, § 1, 56 Stat. 85, related to orders applicable to hops. It was not a part of the Agricultural Adjustment Act of 1933.

§ 608d. Books and records; disclosure of information

(1) All parties to any marketing agreement, and all handlers subject to an order, shall severally, from time to time, upon the request of the Secretary, furnish him with such information as he finds to be necessary to enable him to ascertain and determine the extent to which such agreement or order has been carried out or has effectuated the declared policy of this chapter and with such information as he finds to be necessary to determine whether or not there has been any abuse of the privilege of exemptions from the antitrust laws. Such information shall be furnished in accordance with forms of reports to be prescribed by the Secretary. For the purpose of ascertaining the correctness of any report made to the Secretary pursuant to this subsection, or for the purpose of obtaining the information required in any such report, where it has been requested and has not been furnished, the Secretary is authorized to examine such books, papers, records, copies of income-tax reports, accounts, correspondence, contracts, documents, or memoranda, as he deems relevant and which are within the control (1) of any such party to such marketing agreement, or any such handler, from whom such report was requested or (2) of any person having, either directly or indirectly, actual or legal control of or over such party or such handler or (3) of any subsidiary of any such party, handler, or person.

(2) Notwithstanding the provisions of section 607 of this title, all information furnished to or acquired by the Secretary of Agriculture pursuant to this section shall be kept confidential by all officers and employees of the Department of Agriculture and only such information so furnished or acquired as the Secretary deems relevant shall be disclosed by them, and then only in a suit or administrative hearing brought at the direction, or upon the request, of the Secretary of Agriculture, or to which he or any officer of the United States is a party, and involving the marketing agreement or order with reference to which the information so to be disclosed was furnished or acquired. Nothing in this section shall be deemed to prohibit (A) the issuance of general statements based upon the reports of a number of parties to a marketing agreement or of handlers subject to an order, which statements do not identify the information furnished by any person, or (B) the publi-

cation by direction of the Secretary, of the name of any person violating any marketing agreement or any order, together with a statement of the particular provisions of the marketing agreement or order violated by such person. Any such officer or employee violating the provisions of this section shall upon conviction be subject to a fine of not more than $1,000 or to imprisonment for not more than one year, or to both, and shall be removed from office.

(May 12, 1933, ch. 25, title I, § 8d, as added Aug. 24, 1935, ch. 641, § 6, 49 Stat. 761, and amended June 3, 1937, ch. 296, § 1, 50 Stat. 246.)

REFERENCES IN TEXT

The anti-trust laws, referred to in subsec. (1), are classified generally to chapter 1 (§ 1 et seq.) of Title 15, Commerce and Trade.

CODIFICATION

Act Aug. 24, 1935, struck out provisions of section 8 (4) of act May 12, 1933, formerly appearing in section 608(4) of this title and added a new section 8d containing provisions now appearing in text.

VALIDITY OF SECTION AFFIRMED

Act June 3, 1937, affirmed and validated, and reenacted without change the provisions of this section. See note to section 601 of this title.

CROSS REFERENCES

Amendments to orders, section as applicable to, see section 608c of this title.

Anti-hog-cholera serum and hog-cholera virus provisions, provisions of section as applicable to, see section 855 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 608c, 610, 672, 673, 855, 1392 of this title.

§ 608e. Repealed. July 3, 1948, ch. 827, title III, § 302(d), 62 Stat. 1258

Section, act May 12, 1933, ch. 25, title I, § 8e, as added Aug. 24, 1935, ch. 641, § 6, 49 Stat. 762, and amended June 3, 1937, ch. 296, § 1, 50 Stat. 246, related to determination of base period.

EFFECTIVE DATE OF REPEAL

Repeal effective Jan. 1, 1950, see note set out under section 1301 of this title.

§ 608e–1. Import prohibitions on tomatoes, avocados, limes, etc.; rules and regulations

Notwithstanding any other provision of law, whenever a marketing order issued by the Secretary of Agriculture pursuant to section 608c of this title contains any terms or conditions regulating the grade, size, quality, or maturity of tomatoes, raisins, olives (other than Spanish-style green olives), prunes, avocados, mangoes, limes, grapefruit, green peppers, Irish potatoes, cucumbers, oranges, onions, walnuts, dates, or eggplants produced in the United States the importation into the United States of any such commodity, other than dates for processing, during the period of time such order is in effect shall be prohibited unless it complies with the grade, size, quality, and maturity provisions of such order or comparable restrictions promulgated hereunder: *Provided,* That this prohibition shall not apply to such commodities when shipped into continental United States from the Commonwealth of Puerto Rico or any Territory or possession of the United States where this chapter has force and effect: *Provided further,* That whenever two or more such marketing orders regulating the same agricultural commodity produced in different areas of the United States are concurrently in effect, the importation into the United States of any such commodity, other than dates for processing, shall be prohibited unless it complies with the grade, size, quality, and maturity provisions of the order which, as determined by the Secretary of Agriculture, regulates the commodity produced in the area with which the imported commodity is in most direct competition. Such prohibition shall not become effective until after the giving of such notice as the Secretary of Agriculture determines reasonable, which shall not be less than three days. In determining the amount of notice that is reasonable in the case of tomatoes the Secretary of Agriculture shall give due consideration to the time required for their transportation and entry into the United States after picking. Whenever the Secretary of Agriculture finds that the application of the restrictions under a marketing order to an imported commodity is not practicable because of variations in characteristics between the domestic and imported commodity he shall establish with respect to the imported commodity, other than dates for processing, such grade, size, quality, and maturity restrictions by varieties, types, or other classifications as he finds will be equivalent or comparable to those imposed upon the domestic commodity under such order. The Secretary of Agriculture may promulgate such rules and regulations as he deems necessary, to carry out the provisions of this section. Any person who violates any provision if [1] this section or of any rule, regulation, or order promulgated hereunder shall be subject to a forfeiture in the amount prescribed in section 608a(5) of this title or, upon conviction, a penalty in the amount prescribed in section 608c(14) of this title, or to both such forfeiture and penalty.

(May 12, 1933, ch. 25, title I, § 8e, as added Aug. 28, 1954, ch. 1041, title IV, § 401(e), 68 Stat. 907, and amended Aug. 31, 1954, ch. 1172, § 3(a), 68 Stat. 1047; Aug. 8, 1961, Pub. L. 87–128, title I, § 141(5), 75 Stat. 305; Jan. 11, 1971, Pub. L. 91–670, title IV, § 401, 84 Stat. 2047.)

AMENDMENTS

1971—Pub. L. 91–670 extended the import prohibition to raisins, olives (other than Spanish-style green olives), and prunes.

1961—Pub. L. 87–128 extended the importation prohibition to oranges, onions, walnuts and dates, other than dates for processing.

1954—Act Aug. 31, 1954, made section applicable to mangoes.

EFFECTIVE DATE OF 1954 AMENDMENT

Section 3(b) of act Aug. 31, 1954, provided that the amendment of this section shall become effective Aug. 31, 1954.

§ 608f. Repealed. Pub. L. 89–106, § 9, Aug. 4, 1965, 79 Stat. 432

Section, act May 12, 1933, ch. 25, title I, § 8f, formerly § 8(5), 48 Stat. 34, renumbered and amended Aug.

[1] So in original. Probably should be "of".

24, 1935, ch. 641, § 7, 49 Stat. 762; Oct. 8, 1940, ch. 759, 54 Stat. 1019, prohibited, except in specified cases, the shipment of grain from public grain warehouses to other warehouse without cancellation of warehouse receipts to avoid conflict with other laws regulating warehousemen.

§ 609. Processing tax; methods of computation; rate; what constitutes processing; publicity as to tax to avoid profiteering

(a) To obtain revenue for extraordinary expenses incurred by reason of the national economic emergency, there shall be levied processing taxes as hereinafter provided. When the Secretary of Agriculture determines that any one or more payments authorized to be made under section 608 of this title are to be made with respect to any basic agricultural commodity, he shall proclaim such determination, and a processing tax shall be in effect with respect to such commodity from the beginning of the marketing year therefor next following the date of such proclamation; except that (1) in the case of sugar beets and sugarcane, the Secretary of Agriculture shall, on or before the thirtieth day after May 9, 1934, proclaim that rental or benefit payments with respect to said commodities are to be made, and the processing tax shall be in effect on and after the thirtieth day after May 9, 1934, and (2) in the case of rice, the Secretary of Agriculture shall, before April 1, 1935, proclaim that rental or benefit payments are to be made with respect thereto, and the processing tax shall be in effect on and after April 1, 1935. In the case of sugar beets and sugarcane, the calendar year shall be considered to be the marketing year and for the year 1934 the marketing year shall begin January 1, 1934. In the case of rice, the period from August 1 to July 31, both inclusive, shall be considered to be the marketing year. The processing tax shall be levied, assessed, and collected upon the first domestic processing of the commodity, whether of domestic production or imported, and shall be paid by the processor. The rate of tax shall conform to the requirements of subsection (b) of this section. Such rate shall be determined by the Secretary of Agriculture as of the date the tax first takes effect, and the rate so determined shall, at such intervals as the Secretary finds necessary to effectuate the declared policy, be adjusted by him to conform to such requirements. The processing tax shall terminate at the end of the marketing year current at the time the Secretary proclaims that all payments authorized under section 608 of this title which are in effect are to be discontinued with respect to such commodity. The marketing year for each commodity shall be ascertained and prescribed by regulations of the Secretary of Agriculture: *Provided,* That upon any article upon which a manufacturers' sales tax is levied under the authority of the Revenue Act of 1932, act June 6, 1932, ch. 209, 47 Stat. 169–289, and which manufacturers' sales tax is computed on the basis of weight, such manufacturers' sales tax shall be computed on the basis of the weight of said finished article less the weight of the processed cotton contained therein on which a processing tax has been paid.

(b)(1) The processing tax shall be at such rate as equals the difference between the current average farm price for the commodity and the fair exchange value of the commodity, plus such percentage of such difference, not to exceed 20 per centum, as the Secretary of Agriculture may determine will result in the collection, in any marketing year with respect to which such rate of tax may be in effect pursuant to the provisions of this chapter, of an amount of tax equal to (A) the amount of credits or refunds which he estimates will be allowed or made during such period pursuant to section 615(c) of this title with respect to the commodity and (B) the amount of tax which he estimates would have been collected during such period upon all processings of such commodity, which are exempt from tax by reason of the fact that such processings are done by or for a State, or a political subdivision or an institution thereof, had such processings been subject to tax. If, prior to the time the tax takes effect, or at any time thereafter, the Secretary has reason to believe that the tax at such rate, or at the then existing rate, on the processing of the commodity generally or for any designated use or uses, or on the processing of the commodity in the production of any designated product or products thereof for any designated use or uses, will cause or is causing such reduction in the quantity of the commodity or products thereof domestically consumed as to result in the accumulation of surplus stocks of the commodity or products thereof or in the depression of the farm price of the commodity, then the Secretary shall cause an appropriate investigation to be made, and afford due notice and opportunity for hearing to interested parties. If thereupon the Secretary determines and proclaims that any such result will occur or is occurring, then the processing tax on the processing of the commodity generally or for any designated use or uses, or on the processing of the commodity in the production of any designated product or products thereof for any designated use or uses, shall be at such lower rate or rates as he determines and proclaims will prevent such accumulation of surplus stocks and depression of the farm price of the commodity, and the tax shall remain during its effective period at such lower rate until the Secretary, after due notice and opportunity for hearing to interested parties, determines and proclaims that an increase in the rate of such tax will not cause such accumulation of surplus stocks or depression of the farm price of the commodity. Thereafter the processing tax shall be at the highest rate which the Secretary determines will not cause such accumulation of surplus stocks or depression of the farm price of the commodity, but it shall not be higher than the rate provided in the first sentence of this paragraph.

(2) In the case of wheat, cotton, field corn, hogs, peanuts, tobacco, paper, and jute, and (except as provided in paragraph (8) of this subsection) in the case of sugarcane and sugar beets, the tax on the first domestic processing of the commodity generally or for any particular use, or in the production of any designated product for any designated use, shall be levied, assessed, collected, and paid at the rate prescribed by the regulations of the Secretary of Agriculture in effect on August 24, 1935, during

the period from such date to December 31, 1937, both dates inclusive.

(3) For the period from April 1, 1935, to July 31, 1936, both inclusive, the processing tax with respect to rice shall be levied, assessed, collected, and paid at the rate of 1 cent per pound of rough rice.

(4) For the period from September 1, 1935, to December 31, 1937, both inclusive, the processing tax with respect to rye shall be levied, assessed, collected, and paid at the rate of 30 cents per bushel of fifty-six pounds. In the case of rye, the first marketing year shall be considered to be the period commencing September 1, 1935, and ending June 30, 1936. Subsequent marketing years shall commence on July 1 and end on June 30 of the succeeding year. The provisions of section 616 of this title shall not apply in the case of rye.

(5) If at any time prior to December 31, 1937, a tax with respect to barley becomes effective pursuant to proclamation as provided in subsection (a) of this section, such tax shall be levied, assessed, collected, and paid during the period from the date upon which such tax becomes effective to December 31, 1937, both inclusive, at the rate of 25 cents per bushel of forty-eight pounds. The provisions of section 616 of this title shall not apply in the case of barley.

(6)(A) Any rate of tax which is prescribed in paragraphs (2) to (4), or (5) of this subsection or which is established pursuant to this paragraph on the processing of any commodity generally or for any designated use or uses, or on the processing of the commodity in the production of any designated product or products thereof for any designated use or uses, shall be decreased (including a decrease to zero) in accordance with the formulae, standards, and requirements of paragraph (1) of this subsection, in order to prevent such reduction in the quantity of such commodity or the products thereof domestically consumed as will result in the accumulation of surplus stocks of such commodity or the products thereof or in the depression of the farm price of the commodity, and shall thereafter be increased in accordance with the provisions of paragraph (1) of this subsection but subject to the provisions of subdivision (B) of this paragraph.

(B) If the average farm price of any commodity, the rate of tax on the processing of which is prescribed in paragraphs (2) to (4), or (5) of this subsection or is established pursuant to this paragraph, during any period of twelve successive months ending after July 1, 1935, consisting of the first ten months of any marketing year and the last two months of the preceding marketing year—

(i) is equal to, or exceeds by 10 per centum or less, the fair exchange value thereof, or, in the case of tobacco, is less than the fair exchange value by not more than 10 per centum, the rate of such tax shall (subject to the provisions of subdivision (A) of this paragraph) be adjusted, at the beginning of the next succeeding marketing year, to such rate as equals 20 per centum of the fair exchange value thereof.

(ii) exceeds by more than 10 per centum, but not more than 20 per centum, the fair exchange value thereof, the rate of such tax shall (subject to the provisions of subdivision (A) of this paragraph) be adjusted, at the beginning of the next succeeding marketing year, to such rate as equals 15 per centum of the fair exchange value thereof.

(iii) exceeds by more than 20 per centum the fair exchange value thereof, the rate of such tax shall (subject to the provisions of subdivision (A) of this paragraph) be adjusted, at the beginning of the next succeeding marketing year, to such rate as equals 10 per centum of the fair exchange value thereof.

(C) Any rate of tax which has been adjusted pursuant to this paragraph shall remain at such adjusted rate unless further adjusted or terminated pursuant to this paragraph, until December 31, 1937, or until July 31, 1936, in the case of rice.

(D) In accordance with the formulae, standards, and requirements prescribed in this chapter, any rate of tax prescribed in paragraphs (2) to (4) or (5) of this subsection or which is established pursuant to this paragraph shall be increased.

(E) Any tax, the rate of which is prescribed in paragraphs (2) to (4), or (5) of this subsection or which is established pursuant to this paragraph, shall terminate pursuant to proclamation as provided in subsection (a) of this section or pursuant to section 613 of this title. Any such tax with respect to any basic commodity which terminates pursuant to proclamation as provided in subsection (a) of this section shall again become effective at the rate prescribed in paragraphs (2) to (4), or (5) of this subsection, subject however to the provisions of subdivisions (A) and (B) of this paragraph, from the beginning of the marketing year for such commodity next following the date of a new proclamation by the Secretary as provided in subsection (a) of this section, if such marketing year begins prior to December 31, 1937, or prior to July 31, 1936, in the case of rice, and shall remain at such rate until altered or terminated pursuant to this section or terminated pursuant to section 613 of this title.

(F) After December 31, 1937 (in the case of the commodities specified in paragraphs (2), (4), and (5) of this subsection), and after July 31, 1936 (in the case of rice), rates of tax shall be determined by the Secretary of Agriculture in accordance with the formulae, standards, and requirements prescribed in this chapter but not in this paragraph, and shall, subject to such formulae, standards, and requirements, thereafter be effective.

(G) If the applicability to any person or circumstances of any tax, the rate of which is fixed in pursuance of this paragraph, is finally held invalid by reason of any provision of the Constitution, or is finally held invalid by reason of the Secretary of Agriculture's exercise or failure to exercise any power conferred on him under this chapter, there shall be levied, assessed, collected, and paid (in lieu of all rates of tax fixed in pursuance of this paragraph with respect to all tax liabilities incurred under this chapter on or after the effective date of each of the rates of tax fixed in pursuance of this paragraph), rates of tax fixed under paragraphs (2) to (4), or (5) of this subsection, and such rates shall be in effect (unless the particular tax is

terminated pursuant to proclamation, as provided in subsection (a) of this section or pursuant to section 613 of this title) until altered by Act of Congress; except that, for any period prior to the effective date of such holding of invalidity, the amount of tax which represents the difference between the tax at the rate fixed in pursuance of this paragraph (6) and the tax at the rate fixed under paragraphs (2) to (4), and (5) shall not be levied, assessed, collected or paid.

(7) In the case of rice, the weight to which the rate of tax shall be applied shall be the weight of rough rice when delivered to a processor, except that, where the producer processes his own rice, the weight to which the rate of tax shall be applied shall be the weight of rough rice when delivered to the place of processing.

(8) In the case of sugar beets or sugarcane the rate of tax shall be applied to the direct-consumption sugar, resulting from the first domestic processing, translated into terms of pounds of raw value according to regulations to be issued by the Secretary of Agriculture, and in the event that the Secretary increases or decreases the rate of tax fixed by paragraph (2) of this subsection, pursuant to the provisions of paragraph (6) of this subsection, then the rate of tax to be so applied shall be the higher of the two following quotients: The difference between the current average farm price and the fair exchange value (A) of a ton of sugar beets and (B) of a ton of sugarcane, divided in the case of each commodity by the average extraction therefrom of sugar in terms of pounds of raw value (which average extraction shall be determined from available statistics of the Department of Agriculture); the rate of tax fixed by paragraph (2) of this subsection or adjusted pursuant to the provisions of paragraph (6) of this subsection shall in no event exceed the amount of the reduction by the President on a pound of sugar raw value of the rate of duty in effect on January 1, 1934, under paragraph 501 of section 1001 of title 19, as adjusted to the treaty of commercial reciprocity concluded between the United States and the Republic of Cuba on December 11, 1902, and/or the provisions of sections 124 and 125 of title 19.

(9) In computing the current average farm price in the case of wheat, premiums paid producers for protein content shall not be taken into account.

(c) For the purposes of this chapter, the fair exchange value of a commodity shall be the price therefor that will give the commodity the same purchasing power, with respect to articles farmers buy, as such commodity had during the base period specified in section 602 of this title; and, in the case of all commodities where the base period is the prewar period, August 1909 to July 1914, will also reflect interest payments per acre on farm indebtedness secured by real estate and tax payments per acre on farm real estate, as contrasted with such interest payments and tax payments during said base period; and the current average farm price and the fair exchange value shall be ascertained by the Secretary of Agriculture from available statistics of the Department of Agriculture. The rate of tax upon the processing of any commodity in effect on August 24, 1935, shall not be affected by the adoption of this amendment and shall not be required to be adjusted or altered, unless the Secretary of Agriculture finds that it is necessary to adjust or alter any such rate pursuant to subsection (a) of this section.

(d) As used in this chapter—

(1) In case of wheat, rye, barley, rice, and corn, the term "processing" means the milling or other processing (except cleaning and drying) of wheat, rye, barley, rice, or corn for market, including custom milling for toll as well as commercial milling, but shall not incude the grinding or cracking thereof not in the form of flour for feed purposes only.

(2) In case of cotton, the term "processing" means the spinning, manufacturing, or other processing (except ginning) of cotton; and the term "cotton" shall not include cotton linters.

(3) In case of tobacco, the term "processing" means the manufacturing or other processing (except drying or converting into insecticides and fertilizers) of tobacco.

(4) Repealed. June 26, 1934, ch. 759, § 2(a), 48 Stat. 1242.

(5) Repealed. Aug. 24, 1935, ch. 641, § 14(b), 49 Stat. 767.

(6) In the case of sugar beets and sugarcane—

(A) The term "first domestic processing" means each domestic processing, including each processing of successive domestic processings, of sugar beets, sugarcane, or raw sugar, which directly results in direct-consumption sugar.

(B) The term "sugar" means sugar in any form whatsoever, derived from sugar beets or sugarcane, whether raw sugar or direct-consumption sugar, including also edible molasses, sirups, and any mixture containing sugar (except blackstrap molasses and beet molasses).

(C) The term "blackstrap molasses" means the commercially so-designated "byproduct" of the cane-sugar industry, not used for human consumption or for the extraction of sugar.

(D) The term "beet molasses" means the commercially so-designated "byproduct" of the beet-sugar industry, not used for human consumption or for the extraction of sugar.

(E) The term "raw sugar" means any sugar, as defined above, manufactured or marketed in, or brought into, the United States, in any form whatsoever, for the purpose of being, or which shall be, further refined (or improved in quality, or further prepared for distribution or use).

(F) The term "direct-consumption sugar" means any sugar, as defined above, manufactured or marketed in, or brought into, the United States in any form whatsoever, for any purpose other than to be further refined (or improved in quality, or further prepared for distribution or use).

(G) The term "raw value" means a standard unit of sugar testing ninety-six sugar degrees by the polariscope. All taxes shall be imposed and all quotas shall be established in terms of "raw value" and for purposes of quota and tax measurements all sugar shall be translated into terms of "raw value" according to regulations to be issued by the Secretary, except

that in the case of direct-consumption sugar produced in continental United States from sugar beets the raw value of such sugar shall be one and seven one-hundredths times the weight thereof.

(7) In the case of rice—

(A) The term "rough rice" means rice in that condition which is usual and customary when delivered by the producer to a processor.

(B) The term "processing" means the cleaning shelling, milling (including custom milling for toll as well as commercial milling), grinding, rolling, or other processing (except grinding or cracking by or for the producer thereof for feed for his own livestock, cleaning by or directly for a producer for seed purposes, and drying) of rough rice; and in the case of rough rice with respect to which a tax-payment warrant has been previously issued or applied for by application then pending, the term "processing" means any one of the above mentioned processings or any preparation or handling in connection with the sale or other disposition thereof.

(C) The term "cooperating producer" means any person (including any share-tenant or share-cropper) whom the Secretary of Agriculture finds to be willing to participate in the 1935 production-adjustment program for rice.

(D) The term "processor", as used in subsection (b–1) of section 615 of this title, means any person (including a cooperative association of producers) engaged in the processing of rice on a commercial basis (including custom milling for toll as well as commercial milling).

(8) In the case of any other commodity, the term "processing" means any manufacturing or other processing involving a change in the form of the commodity or its preparation for distribution or use, as defined by regulations of the Secretary of Agriculture; and in prescribing such regulations the Secretary shall give due weight to the customs of the industry.

(e) When any processing tax, or increase or decrease therein, takes effect in respect of a commodity the Secretary of Agriculture, in order to prevent pyramiding of the processing tax and profiteering in the sale of the products derived from the commodity, shall make public such information as he deems necessary regarding (1) the relationship between the processing tax and the price paid to producers of the commodity, (2) the effect of the processing tax upon prices to consumers of products of the commodity, (3) the relationship, in previous periods, between prices paid to the producers of the commodity and prices to consumers of the products thereof, and (4) the situation in foreign countries relating to prices paid to producers of the commodity and prices to consumers of the products thereof.

(f) For the purposes of this chapter, processing shall be held to include manufacturing.

(g) Nothing contained in this chapter shall be construed to authorize any tax upon the processing of any commodity which processing results in the production of newsprint.

(May 12, 1933, ch. 25, title I, § 9, 48 Stat. 35; Apr. 7, 1934, ch. 103, § 3(a), 48 Stat. 528; May 9, 1934, ch. 263, §§ 2, 3, 5, 6, 9, 48 Stat. 670, 671, 675, 676; June 26, 1934, ch. 759, § 2(a), (b), 48 Stat. 1242; Mar. 18, 1935, ch. 32, §§ 1–6, 49 Stat. 45, 46; Aug. 24, 1935, ch. 641, §§ 11–15, 49 Stat. 762–767.)

REFERENCES IN TEXT

Par. 501 of section 1001 of title 19 referred to in subsec. (b)(8) is now covered by Schedule 1, Part 10, of the Revised Tariff Schedules, set out in section 1202 of Title 19, Custom Duties.

The treaty of commercial reciprocity concluded between the United States and Cuba on December 11, 1902, referred to in subsec. (b)(8), was terminated Aug. 21, 1963, pursuant to notice given by the United States on Aug. 21, 1962. See, Bevans, *Treaties and Other International Agreements of the United States of America, 1776–1949*, vol. VI, page 1106.

Sections 124 and 125 of title 19, referred to in subsec. (b)(8), have been omitted from the Code.

Phrase "this amendment" in subsec. (c) refers to act Aug. 24, 1935.

AMENDMENTS

1935—Subsec. (a). Act Aug. 24, 1935, § 11, struck out the second sentence preceding semicolon and inserted in lieu thereof "When the Secretary of Agriculture determines that any one or more payments authorized to be made under section 608 of this title are to be made with respect to any basic agricultural commodity, he shall proclaim such determination, and a processing tax shall be in effect with respect to such commodity from the beginning of the marketing year therefor next following the date of such proclamation."

Act Mar. 18, 1935, §§ 1, 2, struck out comma after "except that" in second sentence and inserted in lieu thereof "(1)", and added "and (2) in the case of rice, the Secretary of Agriculture shall, before April 1, 1935, proclaim that rental or benefit payments are to be made with respect thereto, and the processing tax shall be in effect on and after April 1, 1935".

Subsec. (b). Act Aug. 24, 1935, § 12, amended subsec. (b) generally.

Act Mar. 18, 1935, §§ 3, 4, among other changes, added after the third sentence "In the case of rice, the weight to which the rate of tax shall be applied shall be the weight of rough rice when delivered to a processor, except that where the producer processes his own rice, the weight to which the rate of tax shall be applied shall be the weight of rough rice when delivered to the place of processing."

Subsec. (c). Act Aug. 24, 1935, § 13, among other changes added "The rate of tax upon the processing of any commodity, in effect on August 24, 1935, shall not be affected by the adoption of this amendment and shall not be required to be adjusted or altered, unless the Secretary of Agriculture finds that it is necessary to adjust or alter any such rate pursuant to subsection (a) of this section."

Subsec. (d). Act Aug. 24, 1935, § 14, inserted "rye", "barley" after "wheat" wherever it occurred and repeated par. (5).

Act Mar. 18, 1935, §§ 5, 6, struck out "rice" in par. (11), renumbered par. (7) as (8), and inserted new par. (7).

Subsec. (g). Act Aug. 24, 1935, § 15, added subsec. (g).

1934—Subsec. (a). Act May 9, 1934, § 9, struck out the period after "proclamation" in line 8 and inserted in lieu thereof a semicolon and "except that, in the case of sugar beets and sugarcane, the Secretary of Agriculture shall, on or before the thirtieth day after May 9, 1934, proclaim that rental or benefit payments with respect to said commodities are to be made, and the processing tax shall be in effect on and after the thirtieth day after May 9, 1934. In the case of sugar beets and sugarcane, the calendar year shall be considered to be the marketing year and for the year 1934 the marketing year shall begin January 1, 1934".

Subsec. (b). Act May 9, 1934, § 3, among other changes amended the first two sentences and added at the end thereof "In the case of sugar beets or sugarcane the rate of tax shall be applied to the direct-consumption sugar, resulting from the first domestic processing, translated into terms of pounds of raw value according to regulations to be issued by the Secretary of Agriculture, and the rate of tax to be so applied shall be the higher of the two following quotients: The difference between the current average farm price and the fair exchange value (1) of a ton of sugar beets and (2) of a ton of sugarcane, divided in the case of each commodity by the average extraction therefrom of sugar in terms of pounds of raw value (which average extraction shall be determined from available statistics of the Department of Agriculture); except that such rate shall not exceed the amount of the reduction by the President on a pound of sugar raw value of the rate of duty in effect on January 1, 1934, under paragraph 501 of section 1001 of Title 19, as adjusted to the treaty of commercial reciprocity concluded between the United States and the Republic of Cuba on December 11, 1902, and/or the provisions of sections 124 and 125 of Title 19."

Subsec. (d). Act June 26, 1934, amended par. (7).

Act May 9, 1934, §§ 2, 5, amended par. (6) generally, and renumbered par. (6) as (7).

Act Apr. 7, 1934, renumbered par. (5) as (6) and added a new par. (5).

Subsec. (f). Act May 9, 1934, § 6, added subsec. (f).

REPEALS

Subsec. (d), par. (4). Act June 26, 1934, § 2(a), repealed subsec. (d), par. (4).

Subsec. (d), par. (5). Act Aug. 24, 1935, § 14(b), repealed subsec. (d), par. (5).

UNCONSTITUTIONALITY

This section may be obsolete in view of the Supreme Court's holding that the processing and floor stock taxes provided for by the Agricultural Adjustment Act of 1933 are unconstitutional. See U.S. v. Butler, Mass. 1936, 56 S.Ct. 312, 297 U.S. 1, 80 L.Ed. 477, 102 A.L.R. 914.

SEPARABILITY OF PROVISIONS

Validity of remainder of this chapter as not affected should any of those provisions be declared unconstitutional, see section 614 of this title.

CROSS REFERENCES

Processing and compensating taxes not to be levied or collected, see section 673 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 619a, 673 of this title; title 12 section 1150a.

§ 610. Administration

(a) Appointment of officers and employees; impounding appropriations

The Secretary of Agriculture may appoint such officers and employees, subject to the provisions of chapter 51 and subchapter III of chapter 53 of title 5, and such experts, as are necessary to execute the functions vested in him by this chapter: *Provided,* That the Secretary shall establish the Agricultural Adjustment Administration in the Department of Agriculture for the administration of the functions vested in him by this chapter: And *provided further,* That the State Administrator appointed to administer this chapter in each State shall be appointed by the President, by and with the advice and consent of the Senate. Section 8 of Title II of the Act entitled "An Act to maintain the credit of the United States Government," approved March 20, 1933, to the extent that it provides for the impoundment of appropriations on account of reductions in compensation, shall not operate to require such impoundment under appropriations contained in this chapter.

(b) State and local committees or associations of producers; handlers' share of expenses of authority or agency

(1) The Secretary of Agriculture is authorized to establish, for the more effective administration of the functions vested in him by this chapter, State and local committees, or associations of producers, and to permit cooperative associations of producers, when in his judgment they are qualified to do so, to act as agents of their members and patrons in connection with the distribution of payments authorized to be made under section 608 of this title. The Secretary, in the administration of this chapter, shall accord such recognition and encouragement to producer-owned and producer-controlled cooperative associations as will be in harmony with the policy toward cooperative associations set forth in existing Acts of Congress, and as will tend to promote efficient methods of marketing and distribution.

(2)(i) Each order relating to milk and its products issued by the Secretary under this chapter shall provide that each handler subject thereto shall pay to any authority or agency established under such order such handler's pro rata share (as approved by the Secretary) of such expenses as the Secretary may find will necessarily be incurred by such authority or agency, during any period specified by him, for the maintenance and functioning of such authority or agency, other than expenses incurred in receiving, handling, holding, or disposing of any quantity of milk or products thereof received, handled, held, or disposed of by such authority or agency for the benefit or account of persons other than handlers subject to such order. The pro rata share of the expenses payable by a cooperative association of producers shall be computed on the basis of the quantity of milk or product thereof covered by such order which is distributed, processed, or shipped by such cooperative association of producers.

(ii) Each order relating to any other commodity or product issued by the Secretary under this chapter shall provide that each handler subject thereto shall pay to any authority or agency established under such order such handler's pro rata share (as approved by the Secretary) of such expenses as the Secretary may find are reasonable and are likely to be incurred by such authority or agency, during any period specified by him, for such purposes as the Secretary may, pursuant to such order, determine to be appropriate, and for the maintenance and functioning of such authority or agency, other than expenses incurred in receiving, handling, holding, or disposing of any quantity of a commodity received, handled, held, or disposed of by such authority or agency for the benefit or account of persons other than handlers subject to such order. The pro rata share of the expenses payable by a cooperative association of producers shall be computed on the basis of the quantity of the agricultural commodity or product thereof covered

by such order which is distributed, processed, or shipped by such cooperative association of producers. The payment of assessments for the maintenance and functioning of such authority or agency, as provided for herein, may be required under a marketing agreement or marketing order throughout the period the marketing agreement or order is in effect and irrespective of whether particular provisions thereof are suspended or become inoperative.

(iii) Any authority or agency established under an order may maintain in its own name, or in the name of its members, a suit against any handler subject to an order for the collection of such handler's pro rata share of expenses. The several district courts of the United States are vested with jurisdiction to entertain such suits regardless of the amount in controversy.

(c) Regulations; penalty for violation

The Secretary of Agriculture is authorized, with the approval of the President, to make such regulations with the force and effect of law as may be necessary to carry out the powers vested in him by this chapter. Any violation of any regulation shall be subject to such penalty, not in excess of $100, as may be provided therein.

(d) Regulations of Secretary of Treasury

The Secretary of the Treasury is authorized to make such regulations as may be necessary to carry out the powers vested in him by this chapter.

(e) Review of official acts

The action of any officer, employee, or agent in determining the amount of and in making any payment authorized to be made under section 608 of this title shall not be subject to review by any officer of the Government other than the Secretary of Agriculture or Secretary of the Treasury.

(f) Geographical application

The provisions of this chapter shall be applicable to the United States and its possessions, except the Virgin Islands, American Samoa, the Canal Zone, and the island of Guam; except that, in the case of sugar beets and sugarcane, the President, if he finds it necessary in order to effectuate the declared policy of this chapter, is authorized by proclamation to make the provisions of this chapter applicable to the Virgin Islands, American Samoa, the Canal Zone, and/or the island of Guam.

(g) Officers; dealing or speculating in agricultural products; penalties

No person shall, while acting in any official capacity in the administration of this chapter, speculate, directly or indirectly, in any agricultural commodity or product thereof to which this chapter applies, or in contracts relating thereto, or in the stock or membership interest of any association or corporation engaged in handling, processing, or disposing of any such commodity or product. Any person violating this subsection shall upon conviction thereof be fined not more than $10,000 or imprisoned not more than two years, or both.

(h) Adoption of Federal Trade Commission Act; hearings; report of violations to Attorney General

For the efficient administration of the provisions of this chapter, the provisions, including penalties, of sections 48, 49, and 50 of title 15, are made applicable to the jurisdiction, powers, and duties of the Secretary in administering the provisions of this chapter, and to any person subject to the provisions of this chapter, whether or not a corporation. Hearings authorized or required under this chapter shall be conducted by the Secretary of Agriculture or such officer or employee of the Department as he may designate for the purpose. The Secretary may report any violation of any agreement entered into under this chapter, to the Attorney General of the United States, who shall cause appropriate proceedings to enforce such agreement to be commenced and prosecuted in the proper courts of the United States without delay.

(i) Cooperation with State authorities; imparting information

The Secretary of Agriculture upon the request of the duly constituted authorities of any State is directed, in order to effectuate the declared policy of this chapter and in order to obtain uniformity in the formulation, administration, and enforcement of Federal and State programs relating to the regulation of the handling of agricultural commodities or products thereof, to confer with and hold joint hearings with the duly constituted authorities of any State, and is authorized to cooperate with such authorities; to accept and utilize, with the consent of the State, such State and local officers and employees as may be necessary; to avail himself of the records and facilities of such authorities; to issue orders (subject to the provisions of section 608c of this title) complementary to orders or other regulations issued by such authorities; and to make available to such State authorities the records and facilities of the Department of Agriculture: *Provided,* That information furnished to the Secretary of Agriculture pursuant to section 608d(1) of this title shall be made available only to the extent that such information is relevant to transactions within the regulatory jurisdiction of such authorities, and then only upon a written agreement by such authorities that the information so furnished shall be kept confidential by them in a manner similar to that required of Federal officers and employees under the provisions of section 608d(2) of this title.

(j) Definitions

The term "interstate or foreign commerce" means commerce between any State, Territory, or possession, or the District of Columbia, and any place outside thereof; or between points within the same State, Territory, or possession, or the District of Columbia, but through any place outside thereof; or within any Territory or possession, or the District of Columbia. For the purpose of this chapter (but in nowise limiting the foregoing definition) a marketing transaction in respect to an agricultural commodity or the product thereof shall be considered in interstate or foreign commerce if such commodity or product is part of that current of interstate or foreign commerce usual in the

handling of the commodity or product whereby they, or either of them, are sent from one State to end their transit, after purchase, in another, including all cases where purchase or sale is either for shipment to another State or for the processing within the State and the shipment outside the State of the products so processed. Agricultural commodities or products thereof normally in such current of interstate or foreign commerce shall not be considered out of such current through resort being had to any means or device intended to remove transactions in respect thereto from the provisions of said sections. As used herein, the word "State" includes Territory, the District of Columbia, possession of the United States, and foreign nations.

(May 12, 1933, ch. 25, title I, § 10, 48 Stat. 37; June 16, 1933, ch. 98, title VIII, § 86, 48 Stat. 273; May 9, 1934, ch. 263, § 7, 48 Stat. 675; Aug. 24, 1935, ch. 641, §§ 16–18, 49 Stat. 767; Aug. 26, 1935, ch. 685, 49 Stat. 801; June 22, 1936, ch. 690, § 601(a), 49 Stat. 1739; June 3, 1937, ch. 296, §§ 1, 2(g)–(i), 50 Stat. 246, 248; Proc. No. 2695, eff. July 4, 1946, 11 F.R. 7817, 60 Stat. 1352; Aug. 1, 1947, ch. 425, § 3, 61 Stat. 709; Oct. 28, 1949, ch. 782, title XI, § 1106(a), 63 Stat. 972.)

REFERENCES IN TEXT

Section 8 of title II of the Act entitled "An Act to maintain the credit of the United States Government," referred to in subsec. (a), means act Mar. 20, 1933, ch. 3, title II, § 8, 48 Stat. 15, and is not classified to the code.

CODIFICATION

In subsec. (a), "chapter 51 and subchapter III of chapter 53 of title 5" was substituted for "the Classification Act of 1949" on authority of sec. 7(b) of Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 631, the first section of which enacted Title 5, Government Organization and Employees.

Provisions of subsec. (a), which authorized appointment of officers and employees without regard to the civil-service laws and regulations and which limited the maximum salary payable to any officer or employee to not more than $10,000 per annum, were omitted as obsolete and superseded.

Such appointments are now subject to the civil service laws unless specifically excepted by those laws or by laws enacted subsequent to Executive Order 8743, Apr. 23, 1941, issued by the President pursuant to act Nov. 26, 1940, ch. 919, title I, § 1, 54 Stat. 1211, which covered most excepted positions into the classified (competitive) civil service. The Order is set out as a note under section 3301 of Title 5.

The salary limitation was superseded by the Classification Act of 1949.

References to the Philippine Islands in subsec. (f) of this section were omitted as obsolete in view of the independence of the Philippine Islands, proclaimed by the President of the United States in Proc. No. 2695, which is set out as a note under section 1394 of Title 22, Foreign Relations and Intercourse.

AMENDMENTS

1949—Subsec. (a). Act Oct. 28, 1949, substituted the "Classification Act of 1949" for the "Classification Act of 1923".

1947—Subsec. (b)(2). Act Aug. 1, 1947, among other changes, inserted subpar. (i), designated former first and second sentences of subsection as subpar. (ii) and added final sentence relating to the payment of assessments for the maintenance and functioning of such authority thereto, and designated former third and fourth sentences of subsection as subpar. (iii).

1937—Subsec. (c). Act June 3, 1937, § 2(g), deleted last clause of first sentence which related to regulations establishing conversion factors for any commodity and article processed therefrom to determine the amount of tax imposed or refunds to be made with respect thereto.

Subsec. (f). Act June 3, 1937, § 2(b), the sentence which authorized the President to attach by executive order any or all possessions to any internal-revenue district for the purpose of carrying out provisions with respect to the collection of taxes.

Subsec. (j). Act June 3, 1937, § 2(i), added subsec. (j).

1936—Subsec. (d). Act June 22, 1936, reenacted subsec. (d) for refund purposes.

1935—Subsec. (b). Act Aug. 24, 1935, § 16, among other changes, added "The Secretary, in the administration of this chapter, shall accord such recognition and encouragement to producer-owned and producer-controlled cooperative associations as will be in harmony with the policy toward cooperative associations set forth in existing Acts of Congress, and as will tend to promote efficient methods of marketing and distribution.

"(2) Each order issued by the Secretary under this chapter shall provide that each handler subject thereto shall pay to any authority or agency established under such order such handler's pro rata share (as approved by the Secretary) of such expenses as the Secretary may find will necessarily be incurred by such authority or agency, during any period specified by him, for the maintenance and functioning of such authority or agency, other than expenses incurred in receiving, handling, holding, or disposing of any quantity of a commodity received, handled, held, or disposed of by such authority or agency for the benefit or account of persons other than handlers subject to such order. The pro rata share of the expenses payable by a cooperative association of producers shall be computed on the basis of the quantity of the agricultural commodity or product thereof covered by such order which is distributed, processed, or shipped by such cooperative association of producers. Any such authority or agency may maintain in its own name, or in the names of its members, a suit against any handler subject to an order for the collection of such handler's pro rata share of expenses. The several District Courts of the United States are hereby vested with jurisdiction to entertain such suits regardless of the amount in controversy."

Subsec. (e). Act Aug. 24, 1935, § 17 struck out "rental or benefit payment" and inserted in lieu thereof "payment authorized to be made under section 8".

Subsec. (f). Act Aug. 26, 1935, added the sentence authorizing the President to attach by executive order any or all possessions to any internal-revenue district for the purpose of carrying out provisions with respect to the collection of taxes.

Subsec. (i). Act Aug. 24, 1935, § 18, added subsec. (i).

1934—Subsec. (f). Act May 9, 1934, added the exception provision.

1933—Subsec. (a). Act June 16, 1933, added *"And provided further,* That the State Administrator appointed to administer this chapter in each State shall be appointed by the President, by and with the advice and consent of the Senate" after the end of the first sentence.

REPEALS

Act Oct. 28, 1949, ch. 782, § 1106(a), 63 Stat. 972, set out in the credit of this section, was repealed (subject to a savings clause) by Pub. L. 89-554, Sept. 6, 1966, § 8, 80 Stat. 632, 655.

TRANSFER OF FUNCTIONS

All functions of all officers, agencies and employees of the Department of Agriculture were transferred, with certain exceptions, to the Secretary of Agriculture by 1953 Reorg. Plan No. 2, § 1, eff. June 4, 1953, 18 F.R. 3219, 67 Stat. 633, set out as a note under section 2201 of this title.

All executive and administrative functions of the Federal Trade Commission were, with certain reservations, transferred to the Chairman of the Commission by 1950 Reorg. Plan No. 8, § 1, eff. May 24, 1950, 15 F.R. 3175, 64 Stat. 1264, set out in the Appendix to Title 5, Government Organization and Employees.

1946 Reorg. Plan No. 3, § 501, eff. July 16, 1946, 11 F.R. 7877, 60 Stat. 1100, set out in the Appendix to Title 5, transferred the functions of the Agricultural Adjustment Administration to the Secretary of Agriculture. In his letter to Congress, the President stated that the purpose of this transfer was to permit the Secretary of Agriculture to continue the consolidation already effected in the Production and Marketing Administration. By temporary Executive Orders 9069 and 9577, and Ex. Ord. No. 9280, Dec. 5, 1942, 7 F.R. 10, 179, and Ex. Ord. No. 9322, Mar. 26, 1943, 8 F.R. 3807, as amended by Ex. Ord. No. 9334, Apr. 19, 1943, 8 F.R. 5423, the Agricultural Adjustment Administration had been successively consolidated into the Agricultural Conservation and Adjustment Administration, the Food Production Administration and the War Food Administration, which was terminated and its functions transferred to the Secretary of Agriculture by said Ex. Ord. 9577. The Secretary of Agriculture consolidated the functions of the Agricultural Adjustment Administration into the Production and Marketing Administration by Memorandum 1118, Aug. 18, 1945.

VALIDITY OF SECTION AFFIRMED

Act June 3, 1937, § 1, affirmed, validated, and reenacted without change the provisions of subsecs. (a), (b) (2), (c), and (f) to (i) of this section, except for the amendments to subsecs. (c) and (f) by section 2 of the act. See note to section 601 of this title.

APPROPRIATIONS FOR REFUNDS AND PAYMENTS OF PROCESSING AND RELATED TAXES AND LIMITATIONS THEREON

Acts June 25, 1938, ch. 681, 52 Stat. 1150; May 6, 1939, ch. 115, § 1, 53 Stat. 661, 662; Feb. 12, 1940, ch. 28, § 1, 54 Stat. 36; Mar. 25, 1940, ch. 71, title I, 54 Stat. 61; May 31, 1941, ch. 156, title I, § 1, 55 Stat. 218; Mar. 10, 1942, ch. 178, title I, § 1, 56 Stat. 156; June 30, 1943, ch. 179, title I, 57 Stat. 257; Apr. 22, 1944, ch. 175, title I, § 1, 58 Stat. 201; Apr. 24, 1945, ch. 92, title I, 59 Stat. 62; July 20, 1946, ch. 588, title I, 60 Stat. 574.

EX. ORD. NO. 10199. REGULATIONS WITHOUT APPROVAL OF PRESIDENT

Ex. Ord. No. 10199, Dec. 21, 1950, 15 F.R. 9217, provided:

By virtue of the authority vested in me by the act of August 8, 1950, Public Law 673, 81st Congress [sections 301 to 303 of Title 3] I hereby authorize the Secretary of Agriculture to make without the approval of the President such regulations with the force and effect of law as may be necessary to carry out the powers vested in him by the Agricultural Marketing Agreement Act of 1937, as amended [this chapter].

CROSS REFERENCES

Anti-hog-cholera serum and hog-cholera virus provisions, provisions of section as applicable to, see section 855 of this title.

Creditable service for retirement of employees of a committee or association of employees described by subsec. (b) of this section, see section 8332 of Title 5, Government Organization and Employees.

Member of agency as acting in an official capacity when compensated from United States funds, see section 608c of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 608c, 671, 672, 673, 855, 1392 of this title; title 5 sections 3502, 6312, 8332.

§ 611. "Basic agricultural commodity" defined; exclusion of commodities

As used in this chapter, the term "basic agricultural commodity" means wheat, rye, flax, barley, cotton, field corn, grain sorghums, hogs, cattle, rice, potatoes, tobacco, peanuts, sugar beets and sugarcane, and milk and its products, and any regional or market classification, type, or grade thereof; but the Secretary of Agriculture shall exclude from the operation of the provisions of this chapter, during any period, any such commodity or classification, type, or grade thereof if he finds, upon investigation at any time and after due notice and opportunity for hearing to interested parties, that the conditions of production, marketing, and consumption are such that during such period this chapter can not be effectively administered to the end of effectuating the declared policy with respect to such commodity or classification, type, or grade thereof. As used in this chapter, the term "potatoes" means all varieties of potatoes included in the species Solanum tuberosum.

(May 12, 1933, ch. 25, title I, § 11, 48 Stat. 38; Apr. 7, 1934, ch. 103, §§ 1, 3(b), 4, 5, 48 Stat. 528; May 9, 1934, ch. 263, § 1, 48 Stat. 670; Aug. 24, 1935, ch. 641, § 61, 49 Stat. 782.)

AMENDMENTS

1935—Act Aug. 24, 1935, added after "rice" the word "potatoes" and the last sentence defining potatoes.

1934—Act May 9, 1934, added after "tobacco" the words "sugar beets and sugarcane".

Act Apr. 7, 1934, inserted, after "hogs" "cattle"; after "tobacco" "peanuts"; after "wheat" "rye, flax, barley"; and after "field corn" "grain sorghums".

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 673 of this title; title 12 section 1150a.

§ 612. Appropriation; use of revenues; administrative expenses

(a) There is appropriated, out of any money in the Treasury not otherwise appropriated, the sum of $100,000,000 to be available to the Secretary of Agriculture for administrative expenses under this chapter, and for payments authorized to be made under section 608 of this title. Such sum shall remain available until expended. To enable the Secretary of Agriculture to fianance under such terms and conditions as he may prescribe, surplus reductions with respect to the dairy- and beef-cattle industries, and to carry out any of the purposes described in subsections (a) and (b) of this section and to support and balance the markets for the dairy and beef cattle industries, there is authorized to be appropriated, out of any money in the Treasury not otherwise appropriated, the sum of $200,000,000: *Provided*, That not more than 60 per centum of such amount shall be used for either of such industries.

(b) In addition to the foregoing, for the purpose of effectuating the declared policy of this chapter, a sum equal to the proceeds derived from all taxes imposed under this chapter is appropriated to be available to the Secretary of Agriculture for (1) the acquisition of any agricultural commodity pledged as security for any loan made by any Federal agency, which loan was conditioned upon the borrower agreeing or

having agreed to cooperate with a program of production adjustment or marketing adjustment adopted under the authority of this chapter, and (2) the following purposes under this chapter: Administrative expenses, payments authorized to be made under section 608 of this title, and refunds on taxes. The Secretary of Agriculture and the Secretary of the Treasury shall jointly estimate from time to time the amounts, in addition to any money available under subsection (a) of this section, currently required for such purposes; and the Secretary of the Treasury shall, out of any money in the Treasury not otherwise appropriated, advance to the Secretary of Agriculture the amounts so estimated. The amount of any such advance shall be deducted from such tax proceeds as shall subsequently become available under this subsection.

(c) The administrative expenses provided for under this section shall include, among others, expenditures for personal services and rent in the District of Columbia and elsewhere, for law books and books of reference, for contract stenographic reporting services, and for printing and paper in addition to allotments under the existing law. The Secretary of Agriculture shall transfer to the Treasury Department, and is authorized to transfer to other agencies, out of funds available for administrative expenses under this chapter, such sums as are required to pay administrative expenses incurred and refunds made by such department or agencies in the administration of this chapter.

(May 12, 1933, ch. 25, title I, § 12, 48 Stat. 38; Apr. 7, 1934, ch. 103, § 2, 48 Stat. 528; Aug. 24, 1935, ch. 641, §§ 3, 19, 49 Stat. 753, 768; June 3, 1937, ch. 296, §§ 1, 2(j), 50 Stat. 246, 248.)

AMENDMENTS

1937—Subsec. (a). Act June 3, 1937, § 2(j), deleted "and production adjustments."

1935—Subsec. (a). Act Aug. 24, 1935, § 19, substituted "payments authorized to be made under section 608" for "rental and benefit payments made with respect to reduction in acreage or reduction in production for market under part 2 of this title".

Subsec. (b). Act Aug. 24, 1935, § 3, amended subsec. (b) generally.

1934—Subsec. (a). Act Apr. 7, 1934, added new par. at end thereof.

VALIDITY OF SECTION AFFIRMED

Act June 3, 1937, § 1, affirmed and validated, and reenacted without change the provisions of subsecs. (a) and (c) of this section, except for the amendment to subsec. (a) by section 2 of the act. See note to section 601 of this title.

SETTLEMENT OF CERTAIN CLAIMS AND ACCOUNTS

Act June 5, 1942, ch. 349, §§ 2, 3, 56 Stat. 324, authorized Comptroller General to relieve disbursing and certifying officers from liability for payments made prior to January 6, 1936, under Agricultural Adjustment Act of 1933 or amendments thereto [this chapter] or under the appropriation "Payments for Agricultural Adjustment" in act Feb. 11, 1936, ch. 49, 49 Stat. 1116, upon certificate of Secretary of Agriculture that such payments were made in good faith, and also provided that no action should be taken to recover such excess payments, if the Secretary of Agriculture should further certify that in view of the good faith of the parties or other circumstances of the case, such attempt to recover them would be inadvisable or inequitable.

EX. ORD. NO. 10914. EXPANDED PROGRAM OF FOOD DISTRIBUTION TO NEEDY FAMILIES

Ex. Ord. No. 10914, Jan. 21, 1961, 26 F.R. 639, provided:

Whereas one of the most important and urgent problems confronting this Nation today is the development of a positive food and nutrition program for all Americans;

Whereas I have received the report of the Task Force on Area Redevelopment under the chairmanship of Senator Douglas, in which special emphasis is placed upon the need for additional food to supplement the diets of needy persons in areas of chronic unemployment;

Whereas I am also advised that there are now almost 7 million persons receiving some form of public assistance, that 4.5 million persons are reported as being unemployed and that a substantial number of needy persons are not recipients in the present food distribution program;

Whereas the variety of foods currently being made available is limited and its nutritional content inadequate; and

Whereas despite an abundance of food, farm income has been in a period of decline, and a strengthening of farm prices is desirable.

NOW, THEREFORE, by virtue of the authority vested in me as President of the United States, it is ordered as follows:

The Secretary of Agriculture shall take immediate steps to expand and improve the program of food distribution throughout the United States, utilizing funds and existing statutory authority available to him, including section 32 of the Act of August 24, 1935, as amended (7 U.S.C. 612) [this section], so as to make available for distribution, through appropriate State and local agencies, to all needy families a greater variety and quantity of food out of our agricultural abundance.

JOHN F. KENNEDY.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 616, 672, 673, 724, 1392 of this title; title 12 section 1150a; title 31 section 665.

§§ 612a, 612b. Omitted

CODIFICATION

Section 612a, act Apr. 7, 1934, ch. 103, § 6, 48 Stat. 528; 1940 Reorg. Plan No. III, § 5, 5 F.R. 2108, 54 Stat. 1232, authorized the appropriation of $50,000,000 for the purpose of dairy and beef products for distribution for relief purposes, and for the elimination of diseased cattle, and was eliminated as executed.

Section 612b, act Aug. 24, 1935, ch. 641, § 37, 49 Stat. 775, provided appropriations for elimination of disease in dairy and beef cattle to remain available until June 30, 1936.

§ 612c. Appropriation to encourage exportation and domestic consumption of agricultural products

There is appropriated for each fiscal year beginning with the fiscal year ending June 30, 1936 an amount equal to 30 per centum of the gross receipts from duties collected under the customs laws during the period January 1 to December 31, both inclusive, preceding the beginning of each such fiscal year. Such sums shall be maintained in a separate fund and shall be used by the Secretary of Agriculture only to (1) encourage the exportation of agricultural commodities and products thereof by the payment of benefits in connection with the exportation thereof or of indemnities for losses incurred in connection with such exportation or by payments to producers in connection with the production of that part of any agricultural

commodity required for domestic consumption; (2) encourage the domestic consumption of such commodities or products by diverting them, by the payment of benefits or indemnities or by other means, from the normal channels of trade and commerce or by increasing their utilization through benefits, indemnities, donations or by other means, among persons in low income groups as determined by the Secretary of Agriculture; and (3) establish farmers' purchasing power by making payments in connection with the normal production of any agricultural commodity for domestic consumption. Determinations by the Secretary as to what constitutes diversion and what constitutes normal channels of trade and commerce and what constitutes normal production for domestic consumption shall be final.

The sums appropriated under this section shall be expended for such one or more of the above-specified purposes, and at such times, in such manner, and in such amounts as the Secretary of Agriculture finds will effectuate substantial accomplishment of any one or more of the purposes of this section. Notwithstanding any other provision of this section, the amount that may be devoted, during any fiscal year after June 30, 1939, to any one agricultural commodity or the products thereof in such fiscal year, shall not exceed 25 per centum of the funds available under this section for such fiscal year. The sums appropriated under this section shall be devoted principally to perishable nonbasic agricultural commodities (other than those receiving price support under section 1446 of this title) and their products. The sums appropriated under this section shall, notwithstanding the provisions of any other law, continue to remain available for the purposes of this section until expended; but any excess of the amount remaining unexpended at the end of any fiscal year over $300,000,000 shall, in the same manner as though it had been appropriated for the service of such fiscal year, be subject to the provisions of sections 712 and 713 of title 31.

(Aug. 24, 1935, ch. 641, § 32, 49 Stat. 774; Feb. 29, 1936, ch. 104, § 2, 49 Stat. 1151; Feb. 16, 1938, ch. 30, § 203, 52 Stat. 38; June 30, 1939, ch. 253, title I, 53 Stat. 975; July 3, 1948, ch. 827, title III, § 301, 62 Stat. 1257; Oct. 31, 1949, ch. 792, title IV, § 411, 63 Stat. 1057; Jan. 30, 1954, ch. 2, § 5(b), 68 Stat. 7.)

REFERENCES IN TEXT

Sections 712 and 713 of title 31, referred to in text, were repealed by act July 6, 1949, ch. 299, § 3, 63 Stat. 407.

CODIFICATION

Section was not enacted as part of the Agricultural Adjustment Act, which comprises this chapter.

AMENDMENTS

1954—Act Jan. 30, 1954, substituted the parenthetical phrase "(other than those receiving price support under section 1446 of this title)" for the parenthetical phrase "(other than those designated in section 1446 of this title)," in third sentence of second paragraph.

1949—Act Oct. 31, 1949, inserted next to last sentence in second paragraph.

1948—Act July 3, 1948 added the last sentence which provided for the accumulation of funds up to $300,000,000.

1939—Act June 30, 1939, in clause (2), inserted "or by increasing their utilization through benefits, indemnities, donations or by other means, among persons in low income groups as determined by the Secretary of Agriculture".

1938—Act Feb. 16, 1938 inserted "Notwithstanding any other provision of this section, the amount that may be devoted, during any fiscal year after June 30, 1939, to any one agricultural commodity or the products thereof in such fiscal year, shall not exceed 25 per centum of the funds available under this section for such fiscal year."

1936—Act Feb. 29, 1936 struck out clause (3) and inserted in lieu thereof immediately preceding the second proviso "(3) reestablish farmers' purchasing power by making payments in connection with the normal production of any agricultural commodity for domestic consumption. Determinations by the Secretary as to what constitutes diversion and what constitutes normal channels of trade and commerce and what constitutes normal production for domestic consumption shall be final. The sums appropriated under this section shall be expended for such one or more of the above-specified purposes, and at such times, in such manner, and in such amounts as the Secretary of Agriculture finds will effectuate substantial accomplishment of any one or more of the purposes of this section."

EFFECTIVE DATE OF 1948 AMENDMENT

Amendment of section by act July 3, 1948, effective Jan. 1, 1950, see note set out under section 1301 of this title.

TRANSFER OF FUNCTIONS

All functions of all officers, agencies and employees of the Department of Agriculture were transferred, with certain exceptions, to the Secretary of Agriculture by 1953 Reorg. Plan No. 2, § 1, eff. June 4, 1953, 18 F.R. 3219, 67 Stat. 633, set out as a note under section 2201 of this title.

The name of the Federal Surplus Relief Corporation was changed to Federal Surplus Commodities Corporation by amendment of its charter in 1935. It was consolidated with the Division of Marketing and Marketing Agreements of the Agricultural Adjustment Administration to form the Surplus Marketing Administration by 1940 Reorg. Plan No. III, § 5, 5 F.R. 2108, 54 Stat. 1232, set out in the Appendix to Title 5, Government Organization and Employees. By Executive orders under the First War Powers Act, former section 601 et seq. of Appendix to Title 50, War and National Defense, the Surplus Marketing Administration was merged into the Agricultural Marketing Administration, which was consolidated into the Food Distribution Administration, which was consolidated into the War Food Administration, which was terminated and its functions transferred to the Secretary of Agriculture. By Memorandum 1118, Secretary of Agriculture, Aug. 18, 1945, the functions of the Federal Surplus Commodities Corporation were transferred to the Production and Marketing Administration. 1946 Reorg. Plan No. 3, § 501(a), eff. July 16, 1946, 11 F.R. 7877, 60 Stat. 1100, transferred the functions of the Surplus Marketing Administration to the Secretary of Agriculture. In his letter to Congress, the President stated that the purpose of this transfer was to permit the Secretary of Agriculture to continue the consolidation already effected in the Production and Marketing Administration.

Federal Surplus Commodities Corporation and Division of Marketing and Marketing Agreements of Agricultural Adjustment Administration and their functions were consolidated into Surplus Marketing Administration in Department of Agriculture by Reorg. Plan No. III, § 5, eff. June 30, 1940, set out in the Appendix to Title 5. See, also, sections 8 and 9 of said

plan for provisions relating to transfer of records, property, personnel, and funds.

ADDITIONAL APPROPRIATIONS

Joint Res. July 1, 1941, ch. 266, § 34, 55 Stat. 407, appropriated, in addition to the funds already provided, $25,000,000, to be used by the Secretary of Agriculture, for the purpose of effectuating this section, subject to the provisions of law relating to the expenditure of such funds.

Act July 1, 1941, ch. 267, § 1, 55 Stat. 436, made the funds provided for in this section available for the fiscal year 1942.

Joint Res. June 26, 1940, ch. 432, § 41, 54 Stat. 627, appropriated, in addition to the funds already provided, $50,000,000, to be used by the Secretary of Agriculture, for the purpose of effectuating this section, subject to the provisions of law relating to the expenditure of such funds.

Act June 25, 1940, ch. 421, § 1, 54 Stat. 561, made the funds provided for in this section available for the fiscal year 1941.

Act June 30, 1939, besides amending clause 2, provided for the availability of funds provided by this section during the fiscal year 1940.

Act Aug. 25, 1937, ch. 757, title I, § 1, 50 Stat. 762, provided for availability of portions of funds available under this section in fiscal years 1938 and 1939, for expenditure for price-adjustment payments with respect to 1937 cotton crop.

CONTINUATION OF APPROPRIATIONS DURING FISCAL YEAR TRANSITION PERIOD OF JULY 1, 1976, THROUGH SEPTEMBER 30, 1976

Pub. L. 94-274, title I, § 121, Apr. 21, 1976, 90 Stat. 389, provided that: "For the purposes of section 32 of the Act of August 24, 1935 (7 U.S.C. 612c) the term 'fiscal year' includes the period of July 1, 1976, through September 30, 1976, and the amount to be transferred to the Secretary of Agriculture pursuant to that section and for that period is 7.5 per centum of the gross receipts collected under the customs laws during calendar year 1975."

USE OF APPROPRIATION

Section 301 of act July 30, 1947, ch. 356, title III, 61 Stat. 550, provided that, notwithstanding section 612c of this title, no more than $44,000,000 would be available during the fiscal year ending June 30, 1948, for use in effectuating this chapter; that $65,000,000 of the fiscal year 1948 appropriation were made available to carry out the National School Lunch Act of June 4, 1946, without regard to the 25 per cent limitation in section 612c and exclusive of funds expended pursuant to the last sentence of section 9 of the National School Lunch Act: provided that no part of such funds were to be used for nonfood assistance under section 5 of said Act; and that the remainder of the fund appropriated by said Act for the fiscal year 1948 was rescinded effective July 1, 1947, carried to the surplus fund, and covered into the Treasury immediately thereafter.

CANCELLATION OR RESCISSION OF APPROPRIATION

Section 112(f) of act Apr. 3, 1948, ch. 169, title I, 62 Stat. 148, which provided in part for the rescission or cancellation of appropriations under this section as provided for in act July 30, 1947, ch. 356, title III, 61 Stat. 550, was repealed by act Oct. 10, 1951, ch. 479, title V, § 503(b)(1), as added June 20, 1952, ch. 449, § 7(c), 66 Stat. 144.

COMMODITY DISTRIBUTION PROGRAM; PURCHASE OF AGRICULTURAL COMMODITIES WITH UNEXPENDED OR AVAILABLE FUNDS; PROHIBITION ON FURNISHING COMMODITIES TO SUMMER CAMPS; PARTICIPATION IN PROGRAM OF INDIVIDUAL RECEIVING SUPPLEMENTAL SECURITY INCOME BENEFITS

Pub. L. 93-86, § 4, Aug. 10, 1973, 87 Stat. 249, amended by Pub. L. 93-347, § 1, July 12, 1974, 88 Stat. 340; Pub. L. 94-273, § 2(1), Apr. 21, 1976, 90 Stat. 375, provided that:

"(a)(1) Notwithstanding any other provision of law, the Secretary of Agriculture shall until July 1, 1975, (i) use funds available under provisions of section 32 of Public Law 320, Seventy-fourth Congress, as amended (7 U.S.C. 612c) [this section] and not otherwise expended or necessary for such purposes to purchase, without regard to the provisions of existing law governing the expenditure of public funds, agricultural commodities and their products of the types customarily purchased under section 32 [this section] (which may include seafood commodities and their products) to maintain the traditional level of assistance for food assistance programs as are authorized by law, including but not limited to distribution to needy families pending the transition to the food stamp program, institutions, supplemental feeding programs wherever located, disaster relief, summer camps for children, and the family commodity distribution program on Indian reservations not requesting a food stamp program, and (ii) if stocks of the Commodity Credit Corporation are not available, use the funds of the Corporation to purchase agricultural commodities and their products of the types customarily available under section 416 of the Agricultural Act of 1949 [section 1431 of this title] to meet such requirements.

"(2) Notwithstanding any other provision of law, the Secretary of Agriculture shall, during each of the two fiscal years beginning July 1, 1975, and ending September 30, 1977, purchase agricultural commodities and otherwise carry out the provisions of this subsection with funds appropriated from the general fund of the Treasury. There are hereby authorized to be appropriated such funds as may be necessary to carry out the provisions of this paragraph. Authority provided in this paragraph shall be carried out only with such funds as are appropriated from the general fund of the Treasury for that specific purpose, and in no event shall it be carried out with funds derived from permanent appropriations.

"(3) Nothing in this subsection shall supersede the requirements of section 10(e) of the Food Stamp Act of 1964, as amended [section 2019(e) of this title], except as to Indian reservations.

"(b) The Secretary is prohibited from furnishing commodities to summer camps as authorized under section 416 of the Agricultural Act of 1949 [section 1431 of this title], section 32 of Public Law 74-320 [this section] and section 709 of the Food and Agriculture Act of 1965 [section 1446a-1 of this title] if the number of adults participating in the activities of such camp is in excess of one for each five children under 18 years of age participating in such activities.

"(c) No individual who receives supplemental security income benefits under title XVI of the Social Security Act [subchapter XVI of chapter 7 of Title 42] shall be considered to be a member of a household for any purpose of the Food Distribution Program for families under section 32 of Public Law 74-320 [this section], section 416 of the Agricultural Act of 1949 [section 1446a-1 of this title], or other law for any month if such person receives for such month, as part of his supplemental security income benefits or payments described in section 1616(a) of the Social Security Act [section 1382e(a) of Title 42] (if any), an amount equal to the bonus value of food stamps (according to the Food Stamp Schedule effective for July 1973) in addition to the amount of assistance such individual would be entitled to receive for such month under the provisions of the plan of the State approved under title I, X, XIV, or XVI [subchapter I, X, XIV, or XVI of chapter 7 of Title 42], as appropriate, in effect for December 1973, assuming such plan were in effect for such month and such individual were aged, blind, or disabled, as the case may be, under the provisions of such State plan or under Public Law 92-603 as amended [see Short Title note under section 401 of Title 42]. The Secretary of Health, Education, and Welfare shall issue regulations for the implementa-

tion, of the foregoing sentence after consultation with the Secretary of Agriculture."

[Pub. L. 93-233, § 8(b)(1), Dec. 30, 1973, 87 Stat. 956, as amended by Pub. L. 93-335, § 1(b), July 8, 1974, 88 Stat. 291; Pub.L. 94-44, § 3(b), June 28, 1975, 89 Stat. 235; Pub. L. 94-365, § 2(2), July 14, 1976, 90 Stat. 990, provided that: "Section 4(c) of Public Law 93-86 [subsec. (c) of this note] shall not be effective for the period ending June 30, 1977."]

DIRECT DISTRIBUTION PROGRAMS FOR DIET OF NEEDY CHILDREN AND LOW-INCOME PERSONS SUFFERING FROM GENERAL AND CONTINUED HUNGER; ADDITIONAL FUNDS

Section 6 of Pub. L. 92-32, June 30, 1971, 85 Stat. 86, authorized the Secretary of Agriculture to use during the fiscal year ending June 30, 1972, not to exceed $20,000,000 in funds from section 612c of this title, in addition to funds appropriated or otherwise available, to carry out in any area of the United States direct distribution or other programs, without regard to whether such area is under the food stamp program or a system of direct distribution, in order to provide in the vicinity of their residence an adequate diet to needy children and low income persons suffering, through no fault of their own, from general and continued hunger; provided that food made available to needy children was to be in addition to food made available under the National School Lunch Act or the Child Nutrition Act of 1966; and authorized payment of administrative costs incurred by state or local agencies in carrying out programs for needy children.

USE OF FUNDS FOR SCHOOL LUNCH PROGRAM UNDER SECTION 1753 OF TITLE 42

Use of funds appropriated under this section for implementing section 1753 of Title 42 till supplemental appropriation is made and reimbursement of such funds, see section 4(a) of Pub. L. 92-433, set out as a note under section 1753 of Title 42, The Public Health and Welfare.

TRANSFER OF FUNDS TO SCHOOLS IN NEED OF ADDITIONAL ASSISTANCE IN SCHOOL BREAKFAST PROGRAM

Authorization for transfer of funds under this section to assist schools in need of additional funds in school breakfast program, see note set out under section 1773 of Title 42, The Public Health and Welfare.

ADDITIONAL FUNDS FOR FOOD SERVICE PROGRAMS FOR CHILDREN; APPORTIONMENT TO STATES; SPECIAL ASSISTANCE; CONSULTATION WITH CHILD NUTRITION COUNCIL; REIMBURSEMENT FROM SUPPLEMENTAL APPROPRIATION

Additional funds for food service programs for children from appropriations under this section, apportionment to States, special assistance programs, consultation with National Advisory Council on Child Nutrition, and reimbursement from supplemental appropriation, see note set out under section 1753 of Title 42, The Public Health and Welfare.

MEAL AND FLOUR FOR RELIEF

Act Aug. 9, 1955, ch. 671, 69 Stat. 608, authorized the Secretary of Agriculture upon specific request of the Governor of any State, during the period commencing Aug. 9, 1955 and ending June 30, 1957, to make available, pursuant to clause (2) of this section for distribution by State agencies, other than institutions and schools, directly to families and persons determined by appropriate State or local public welfare agencies to be in need, wheat flour and corn meal in such quantities as the Secretary of Agriculture determines can be effectively distributed and utilized within such period without regard to the requirement contained in this section, that such funds be devoted principally to perishable nonbasic agricultural commodities and their products.

ELIGIBILITY OF SUPPLEMENTAL SECURITY INCOME RECIPIENTS FOR FOOD STAMPS DURING PERIOD ENDING JUNE 30, 1977

Pub. L. 93-233, § 8(b)(3), Dec. 30, 1973, 87 Stat. 956, as amended by Pub. L. 93-335, § 1(b), July 8, 1974, 88 Stat. 291; Pub. L. 94-44, § 3(b), June 28, 1975, 89 Stat. 235; Pub. L. 94-365, § 2(2), July 14, 1976, 90 Stat. 990, provided that, for the period ending June 30, 1977, Jan. 1, 1974, no individual receiving supplemental security income benefits under title XVI of the Social Security Act, State supplementary payments described in section 1616 of such Act, or payments of the type referred to in section 212(a) of Pub. L. 93-66 shall be considered a household member for any purpose of the food distribution program for families under section 612c of this title, section 416 of the Agricultural Act of 1949, or any other law for any month during such period if such individual resides in a State providing supplementary payments (A) of the type described in section 1616(a) of the Social Security Act and (B) the level of which has been increased to include the bonus value of food stamps.

FOOD STAMP PLAN

Acts June 25, 1940, ch. 421, § 1, 54 Stat. 563; July 1, 1941, ch. 267, § 1, 55 Stat. 438, provided: "That said 25 per centum provision and the like provision in said section 32 [this section], as amended, shall not apply to amounts devoted to a stamp plan for the removal of surplus agricultural commodities from funds made available hereby and by said section 32 [this section], and, notwithstanding expenditures under such stamp plan, the 25 per centum provision shall continue to be calculated on the aggregate amount available hereunder and under said section 32 [this section]."

DISTRIBUTION OF SURPLUS COMMODITIES TO OTHER UNITED STATES AREAS

Extension of relief programs to areas under United States jurisdiction, see section 1431b of this title.

FISHERY PRODUCTS; USE OF FUNDS

Use of funds made available under this section for distribution of surplus fishery products, and for promotion of free flow of domestically produced fishery products, see sections 713c-2 and 713c-3 of Title 15, Commerce and Trade.

HOME ECONOMICS TRAINING

Authorization of schools to use surplus foods received under this section to train students in home economics, see note under section 1431 of this title.

CROSS REFERENCES

Secretary of Agriculture not precluded from carrying on programs under this section by International Wheat Agreement Act of 1949, see section 1641 of this title.

Supplemental appropriations to encourage exportation and domestic consumption of agricultural products, see section 1855 of this title.

Transfer of funds to Federal Surplus Commodities Corporation to effectuate clause (2) of this section, see section 713c of Title 15, Commerce and Trade.

Utilization of services and facilities of Commodity Credit Corporation in carrying out program under this section, see section 1424 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 624, 1392, 1421, 1424, 1431b, 1641, 1855, 2627 of this title; title 12 section 1150a; title 15 sections 713c, 713c-2, 713c-3; title 22 section 1922; title 42 sections 1755, 1758, 1761, 1762, 1762a, 1766, 1777, 1786, 3045f, 5180.

§ 612c–1. Authorization for appropriations to increase domestic consumption of surplus farm commodities

On and after December 30, 1963, such sums (not in excess of $25,000,000 in any one year) as may be approved by the Congress shall be available for the purpose of increasing domestic consumption of any farm commodity or farm commodities determined by the Secretary of Agriculture to be in surplus supply, such authorization not to restrict authority in existing law, of which amount $11,000,000 shall remain available until expended for construction and equipping of research facilities determined to be needed as a result of a special survey.

(Pub. L. 88–250, title I, § 101, Dec. 30, 1963, 77 Stat. 826.)

CODIFICATION

Section was not enacted as part of the Agricultural Adjustment Act, which comprises this chapter.

§ 612c–2. Technical support to exporters and importers of United States agricultural products; scope of support provided by Department of Agriculture

The Department of Agriculture shall provide technical support to exporters and importers of United States agricultural products when so requested. Such support shall include, but not be limited to, a review of the feasibility of the export proposal, adequacy of sources of supply, compliance with trade regulations of the United States and the importing country and such other information or guidance as may be needed to expand and expedite United States agricultural exports by private trading interests.

(Pub. L. 91–524, title VIII, § 811, as added Pub. L. 93–86, § 1(27)(B), Aug. 10, 1973, 87 Stat. 238.)

CODIFICATION

Section was not enacted as part of the Agricultural Adjustment Act, which comprises this chapter.

§ 612c–3. Export sales reports; reporting period; contents; confidentiality; compilation and publication by Secretary; penalty for failure to report; monthly reports

All exporters of wheat and wheat flour, feed grains, oil seeds, cotton and products thereof, and other commodities the Secretary may designate produced in the United States shall report to the Secretary of Agriculture, on a weekly basis, the following information regarding any contract for export sales entered into or subsequently modified in any manner during the reporting period: (a) type, class, and quantity of the commodity sought to be exported, (b) the marketing year of shipment, (c) destination, if known. Individual reports shall remain confidential but shall be compiled by the Secretary and published in compilation form each week following the week of reporting. All exporters of agricultural commodities produced in the United States shall upon request of the Secretary of Agriculture immediately report to the Secretary any information with respect to export sales of agricultural commodities and at such times as he may request. Any person (or corporation) who knowingly fails to report export sales pursuant to the requirements of this section shall be fined not more than $25,000 or imprisoned not more than one year, or both. The Secretary may, with respect to any commodity or type or class thereof during any period in which he determines that there is a domestic supply of such commodity substantially in excess of the quantity needed to meet domestic requirements, and that total supplies of such commodity in the exporting countries are estimated to be in surplus, and that anticipated exports shall not result in excessive drain on domestic supplies, and that to require the reports to be made will unduly hamper export sales, provide for such reports by exporters and publishing of such data to be on a monthly basis rather than on a weekly basis.

(Pub. L. 91–524, title VIII, § 812, as added Pub. L. 93–86, § 1(27)(B). Aug. 10, 1973, 87 Stat. 238.)

CODIFICATION

Section was not enacted as part of the Agricultural Adjustment Act, which comprises this chapter.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 50 App. sections 2403, 2409.

§ 613. Termination date; investigations and reports

This chapter shall cease to be in effect whenever the President finds and proclaims that the national economic emergency in relation to agriculture has been ended; and pending such time the President shall by proclamation terminate with respect to any basic agricultural commodity such provisions of this chapter as he finds are not requisite to carrying out the declared policy with respect to such commodity. In the case of sugar beets and sugarcane, the taxes provided by this chapter shall cease to be in effect, and the powers vested in the President or in the Secretary of Agriculture shall terminate on December 31, 1937 unless this chapter ceases to be in effect at an earlier date, as hereinabove provided. The Secretary of Agriculture shall make such investigations and reports thereon to the President as may be necessary to aid him in executing this section.

(May 12, 1933, ch. 25, title I, § 13, 48 Stat. 39; May 9, 1934, ch. 263, § 15, 48 Stat. 677; Aug. 24, 1935, ch. 641, § 20, 49 Stat. 768.)

AMENDMENTS

1935—Act Aug. 24, 1935, substituted "on December 31, 1937" for "at the end of three years after the adoption of this amendment".

1934—Act May 9, 1934, inserted the second sentence relating to taxes on sugar beets and sugarcane.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 609, 673 of this title.

§ 613a. Repealed. Sept. 1, 1937, ch. 898, title V, § 510, 50 Stat. 916

Section, act June 19, 1936, ch. 612, § 1, 49 Stat. 1539, related to termination of taxes on sugar beets and sugarcane.

§ 614. Separability of provisions

If any provision of this chapter is declared unconstitutional, or the applicability thereof to

any person, circumstance, or commodity is held invalid the validity of the remainder of this chapter and the applicability thereof to other persons, circumstances, or commodities shall not be affected thereby.

(May 12, 1933, ch. 25, title I, § 14, 48 Stat. 39; June 3, 1937, ch. 296, § 1, 50 Stat. 246.)

VALIDITY OF SECTION AFFIRMED

Act June 3, 1937, § 1, affirmed and validated, and reenacted without change the provisions of this section. See note to section 601 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 672, 673, 1392 of this title.

§ 615. Refunds of tax; exemptions from tax; compensating tax; compensating tax on foreign goods; covering into Treasury

(a) If at any time the Secretary of Agriculture finds, upon investigation and after due notice and opportunity for hearing to interested parties, that any class of products of any commodity is of such low value, considering the quantity of the commodity used for their manufacture, that the imposition of the processing tax would prevent in whole or in large part the use of the commodity in the manufacture of such products and thereby substantially reduce consumption and increase the surplus of the commodity, then the Secretary of Agriculture shall so certify to the Secretary of the Treasury, specifying whether such results will in his judgment most effectively be prevented by a suspension of the imposition of the processing tax or a refund of the tax paid, with respect to such amount of the commodity or any product thereof as is used in the manufacture of such products, and thereafter, as shall be specified in such certification, (1) the imposition of the processing tax shall be suspended with respect to such amount of the commodity as is used in the manufacture of such products, and thereafter, as shall be specified in such certification, (2) the imposition of the processing tax shall be suspended with respect to such amount of the commodity as is used in the manufacture of such products until such time as the Secretary of Agriculture, after further investigation and due notice and opportunity for hearing to interested parties, revokes his certification to the Secretary of the Treasury, or (3) the Secretary of the Treasury shall refund (in accordance with the provisions of, to such persons and in such manner as shall be specified in, such certification) the amount of any tax paid (prior to the date of any revocation by the Secretary of Agriculture of his certification to the Secretary of the Treasury, upon further investigation and after due notice and opportunity for hearing to interested parties) under this chapter with respect to such amount of the commodity or any product thereof as is used after the date of such certification in the manufacture of such products, or shall credit against any tax due and payable under this chapter the amount of tax which would be refundable. During the period in which any certificate under this section is effective, the provisions of subsection (e) of this section shall be suspended with respect to all imported articles of the kind described in such certificate; and notwithstanding the provisions of section 623 of this title, any compensating taxes, which have heretofore, during the period in which any certificate under this section has been effective, become due and payable upon imported articles of the kind described in such certificate, shall be refunded by the Secretary of the Treasury if the same have been paid, or, if the same have not been paid the amount thereof shall be abated. Notwithstanding the provisions of section 623 of this title, the Secretary of the Treasury shall refund or credit any processing tax paid on or before June 12, 1934, with respect to such amount of cotton as was used in the manufacture of large cotton bags (as defined in the Certificate of the Secretary of Agriculture, dated June 12, 1934) between June 13, and July 7, 1934, both inclusive.

(b) No tax shall be required to be paid on the processing of any commodity by or for the producer thereof for consumption by his own family, employees, or household; and the Secretary of Agriculture is authorized, by regulations, to exempt from the payment of the processing tax the processing of commodities by or for the producer thereof for sale by him where, in the judgment of the Secretary, the imposition of a processing tax with respect thereto is unnecessary to effectuate the declared policy.

(b-1) The Secretary of Agriculture is authorized and directed to issue tax-payment warrants, with respect to rough rice produced in 1933 and 1934 (provided the processing of such rice is not exempt from the tax, and provided no tax payment warrant has been previously issued with respect thereto or previously applied for by application then pending, sufficient to cover the tax with respect to the processing thereof at the rate in effect at the time of such issuance, to any processor with respect to any such rice which he had in his possession on March 31, 1935, and to, or at the direction of any other person with respect to any such rice which, on or after April 1, 1935, he delivers for processing or sells to a processor: *Provided,* That in case any such processor or other person is the producer of such rice (or has received such rice by gift, bequest, or descent from the producer thereof) that such processor or other person is, if eligible, a cooperating producer: *And provided further,* That in case such processor or other person is not the producer thereof (nor a person who has received such rice by gift, bequest, or descent from the producer thereof), (a) that, if the title to such rice was transferred from the producer thereof, whether by operation of law or otherwise, prior to April 1, 1935, such producer received the price prescribed in any marketing agreement, license, regulation, or administrative ruling, pursuant to this chapter, applicable to the sale of such rice by the producer, and (b) that, if the title to such rice was transferred from the producer thereof, whether by operation of law or otherwise, on or after April 1, 1935, such producer received at least the full market price therefor plus an amount equal to 99 per centum of the face value of taxpayment warrants sufficient to cover the tax on the processing of such rice at rate in effect at the time title was so trans-

ferred, and was, if eligible, a cooperating producer.

(b-2) The warrants authorized and directed to be issued by subsection (b-1) of this section—

(1) shall be issued by the Secretary of Agriculture or his duly authorized agent in such manner, at such time or times, at such place or places, in such form, and subject to such terms and conditions with reference to the transfer thereof or the voiding of warrants fraudulently obtained and/or erroneously issued, as the Secretary of Agriculture may prescribe, and the Secretary of Agriculture is authorized to discontinue the further issuance of tax-payment warrants at any time or times and in any region or regions when he shall determine that the rice in any such region or regions can no longer be identified adequately as rice grown in 1933 or 1934; and

(2) shall be accepted by the Collector of Internal Revenue and the Secretary of the Treasury at the face value thereof in payment of any processing tax on rice.

(b-3)(1) Any person who deals or traffics in, or purchases any such tax-payment warrant or the right of any person thereto at less than 99 per centum of its face value shall be guilty of a misdemeanor and upon conviction thereof shall be fined not more than $1,000 or imprisoned for not more than one year or both.

(2) Any person who, with intent to defraud, secures or attempts to secure, or aids or assists in or procures, counsels, or advises, the securing or attempting to secure any tax-payment warrant with respect to rice as to which any tax-payment warrant has been theretofore issued shall be guilty of a misdemeanor and upon conviction thereof shall be fined not more than $1,000 or imprisoned for not more than one year, or both.

(3) Any person who with intent to defraud forges, makes, alters, or counterfeits any tax-payment warrant or any stamp, tag, or other means of identification provided for by this chapter or any regulation issued pursuant thereto, or makes any false entry upon such warrant or any false statement in any application for the issuance of such warrant, or who uses, sells, lends, or has in his possession any such altered, forged, or counterfeited warrant or stamp, tag, or other means of identification, or who makes, uses, sells, or has in his possession any material in imitation of the material used in the manufacture of such warrants or stamps, tags, or other means of identification, shall, upon conviction thereof, be punished by a fine not exceeding $5,000 or by imprisonment not exceeding five years, or both.

(4) All producers, warehousemen, processors, and common carriers, having information with respect to rice produced in the years 1933 or 1934, may be required to furnish to the Secretary of Agriculture such information as he shall, by order, prescribe as necessary to safeguard the issuance, transfer, and/or use of tax-payment warrants.

(5) The Secretary of Agriculture may make regulations protecting the interests of producers (including share-tenants and share-croppers) and others, in the issuance, holding, use, and/or transfer of such tax-payment warrants.

(c) Any person, including any State or Federal organization or institution, delivering any product to any organization for charitable distribution or use, including any State or Federal welfare organization, for its own use, whether the product is delivered as merchandise, or as a container for merchandise, or otherwise, shall, if such product or the commodity from which processed is under this chapter subject to tax, be entitled to a refund of the amount of any tax due and paid under this chapter with respect to such product so delivered, or to a credit against any tax due and payable under this chapter of the amount of tax which would be refundable under this section with respect to such product so delivered: *Provided, however,* That no tax shall be refunded or credited under this section, unless the person claiming the refund or credit establishes, in accordance with regulations prescribed by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury (1) that he has not included the tax in the price of the product so delivered or collected the amount of the tax from the said organization, or (2) that he has repaid, or has agreed in writing to repay, the amount of the tax to the said organization. The word "State" as used in this section shall include a State and any political subdivision thereof.

(d) The Secretary of Agriculture shall ascertain from time to time whether the payment of the processing tax upon any basic agricultural commodity is causing or will cause to the processors or producers thereof disadvantages in competition from competing commodities by reason of excessive shifts in consumption between such commodities or products thereof. If the Secretary of Agriculture finds, after investigation and due notice and opportunity for hearing to interested parties, that such disadvantages in competition exist, or will exist, he shall proclaim such finding. The Secretary shall specify in this proclamation the competing commodity and the compensating rate of tax on the processing thereof necessary to prevent such disadvantages in competition. Thereafter there shall be levied, assessed, and collected upon the first domestic processing of such competing commodity a tax, to be paid by the processor, at the rate specified, until such rate is altered pursuant to a further finding under this section, or the tax or rate thereof on the basic agricultural commodity is altered or terminated. In no case shall the tax imposed upon such competing commodity exceed that imposed per equivalent unit, as determined by the Secretary, upon the basic agricultural commodity.

(e) During any period for which a processing tax is in effect with respect to any commodity there shall be levied, assessed, collected, and paid upon any article processed or manufactured wholly or partly from such commodity and imported into the United States or any possession thereof to which this chapter applies, from any foreign country or from any possession of the United States to which this chapter does not apply, whether imported as merchandise, or as a container of merchandise, or otherwise, a compensating tax equal to the amount of the processing tax in effect with respect to domestic processing of such commodity into such an article at the time of importation: *Pro-*

vided, (1) That in the event any of the provisions of this chapter have been or are hereafter made applicable to any possession of the United States in the case of any particular commodity or commodities, but not generally, this chapter, for the purposes of this subsection, shall be deemed applicable to such possession with respect to such commodity or commodities but shall not be deemed applicable to such possession with respect to other commodities; and (2) That all taxes collected under this subsection upon articles coming from the possessions of the United States to which this chapter does not apply shall not be covered into the general fund of the Treasury of the United States but shall be held as a separate fund and paid into the Treasury of the said possessions, respectively, to be used and expended by the governments thereof for the benefit of agriculture. Such tax shall be paid prior to the release of the article from customs custody or control.

(f) The President, in his discretion, is authorized by proclamation to decree that all or part of the taxes collected from the processing of sugar beets or sugarcane in Puerto Rico, the Territory of Hawaii, the Virgin Islands, American Samoa, the Canal Zone, and/or the island of Guam (if the provisions of this chapter are made applicable thereto), and/or upon the processing in continental United States of sugar produced in, or coming from, said areas, shall not be covered into the general fund of the Treasury of the United States but shall be held as a separate fund, in the name of the respective area to which related, to be used and expended for the benefit of agriculture and/or paid as rental or benefit payments in connection with the reduction in the acreage, or reduction in the production for market, or both, of sugar beets and/or sugarcane, and/or used and expended for expansion of markets and for removal of surplus agricultural products in such areas, respectively, as the Secretary of Agriculture, with the approval of the President, shall direct.

(May 12, 1933, ch. 25, title I, § 15, 48 Stat. 39; May 9, 1934, ch. 263, §§ 8, 11, 48 Stat. 675, 676; June 16, 1934, ch. 551, 48 Stat. 973; June 26, 1934, ch. 759, § 1, 48 Stat. 1241; Mar. 18, 1935, ch. 32, §§ 8, 9, 49 Stat. 47, 48; Aug. 24, 1935, ch. 641, §§ 21–24, 49 Stat. 768; June 22, 1936, ch. 690, § 601(a), 49 Stat. 1739; Proc. No. 2695, eff. July 4, 1946, 11 F.R. 7871, 60 Stat. 1352.)

CODIFICATION

Reference to the Philippine Islands in subsec. (f) was omitted as obsolete in view of the independence proclaimed by the President of the United States by Proc. No. 2695, which is set out as a note under section 1394 of Title 22, Foreign Relations and Intercourse.

AMENDMENTS

1936—Subsecs. (a) and (c). Act June 22, 1936, reenacted subsecs. only for the purpose of allowing refunds in cases where the delivery for charitable distribution or use, or the exportation, or the manufacture of large cotton bags, or the decrease in the rate of the processing tax, took place prior to Jan. 6, 1936.

1935—Subsec. (a). Act Aug. 24, 1935, § 21, inserted ":or shall credit against any tax due and payable under this chapter the amount of tax which would be refundable. During the period in which any certificate under this section is effective, the provisions of subsection (e) of this section shall be suspended with respect to all imported articles of the kind described in such certificate; and notwithstanding the provisions of section 623 of this title, any compensating taxes, which have heretofore, during the period in which any certificate under this section has been effective, become due and payable upon imported articles of the kind described in such certificate, shall be refunded by the Secretary of the Treasury if the same have been paid, or, if the same have not been paid the amount thereof shall be abated. Notwithstanding the provisions of section 623 of this title, the Secretary of the Treasury shall refund or credit any processing tax paid on or before June 12, 1934, with respect to such amount of cotton as was used in the manufacture of large cotton bags (as defined in the Certificate of the Secretary of Agriculture, dated June 12, 1934) between June 13, and July 7, 1934, both inclusive".

Subsecs. (b–1) to (b–3). Act Mar. 18, 1935, § 8, added subsecs. (b–1) to (b–3).

Subsec. (e). Act Aug. 24, 1935, § 24, added "into such an article" after "with respect to domestic processing of such commodity".

Subsec. (e). Act Mar. 18, 1935, § 9, among other changes, added "(1) That in the event any of the provisions of this chapter have been or are hereafter made applicable to any possession of the United States in the case of any particular commodity or commodities, but not generally, this chapter, for the purposes of this subsection, shall be deemed applicable to such possession with respect to such commodity or commodities but shall not be deemed applicable to such possession with respect to other commodities; and (2)".

1934—Subsec. (a). Act June 26, 1934, among other changes, inserted "and thereafter, as shall be specified in such certification, (1) the imposition of the processing tax shall be suspended with respect to such amount of the commodity as is used in the manufacture of such products".

Subsec. (c). Act June 16, 1934, among other changes, added a proviso.

Subsec. (e). Act May 9, 1934, § 11, amended subsec. (e) generally.

Subsec. (f). Act May 9, 1934, § 8, added subsec. (f).

SEPARABILITY OF PROVISIONS

Validity of remainder of this chapter as not affected should any of the provisions of this chapter be declared unconstitutional, see section 614 of this title.

CONSTITUTIONALITY

Unconstitutionality of processing and floor stock taxes, see note under section 616 of this title.

ABOLISHMENT OF OFFICES AND TRANSFER OF FUNCTIONS

The office of Internal Revenue Collector was abolished by 1952 Reorg. Plan No. 1, § 1, eff. Mar. 14, 1952, 17 F.R. 2243, 66 Stat. 823, set out in the Appendix to Title 5, Government Organization and Employees, and by section 2 thereof a new office of district commissioner of internal revenue was established. Section 4 of the Plan transferred all functions, that had been vested by statute in any officer or employee of the Bureau of Internal Revenue since the effective date of 1950 Reorg. Plan No. 26, §§ 1, 2, 15 F.R. 4935, 64 Stat. 1280, 1281, to the Secretary of the Treasury.

All functions of all officers of the Department of the Treasury, and all functions of all agencies and employees of such Department, were transferred, with certain exceptions, to the Secretary of the Treasury, with power vested in him to authorize their performance or the performance of any of his functions, by any of those officers, agencies, and employees, by 1950 Reorg. Plan No. 26, §§ 1, 2, eff. July 31, 1950, 15 F.R. 4935, 64 Stat. 1280, set out in the Appendix to Title 5. The Collector and Commissioner of Internal Revenue, referred to in this section, are officers of the Treasury Department.

ADMISSION OF HAWAII TO STATEHOOD

Hawaii was admitted into the Union on Aug. 21, 1959 upon the issuance of Proc. No. 3309, Aug. 25, 1959, 24 F.R. 6868, 73 Stat. c74. For Hawaii statehood law, see Pub. L. 86-3, Mar. 18, 1959, 73 Stat. 4, set out as a note preceding section 491 of Title 48, Territories and Insular Possessions.

APPROPRIATIONS

Appropriations for refunds, etc., see note under section 610 of this title.

CROSS REFERENCES

Processing and compensating taxes not to be levied or collected, see section 673 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 609, 616, 673 of this title.

§ 616. Stock on hand when tax takes effect or terminates

(a) Upon the sale or other disposition of any article processed wholly or in chief value from any commodity with respect to which a processing tax is to be levied, that on the date the tax first takes effect or wholly terminates with respect to the commodity, is held for sale or other disposition (including articles in transit) by any person, there shall be made a tax adjustment as follows:

(1) Whenever the processing tax first takes effect, there shall be levied, assessed, and collected a tax to be paid by such person equivalent to the amount of the processing tax which would be payable with respect to the commodity from which processed if the processing had occurred on such date. Such tax upon articles imported prior to, but in customs custody or control on, the effective date, shall be paid prior to release therefrom. In the case of sugar, the tax on floor stocks, except the retail stocks of persons engaged in retail trade, shall be paid for the month in which the stocks are sold, or used in the manufacture of other articles, under rules and regulations prescribed by the Commissioner of Internal Revenue with the approval of the Secretary of the Treasury.

(2) Whenever the processing tax is wholly terminated, (A) there shall be refunded or credited in the case of a person holding such stocks with respect to which a tax under this chapter has been paid, or (B) there shall be credited or abated in the case of a person holding such stocks with respect to which a tax under this chapter is payable, where such person is the processor liable for the payment of such tax, or (C) there shall be refunded or credited (but not before the tax has been paid) in the case of a person holding such stocks with respect to which a tax under this chapter is payable, where such person is not the processor liable for the payment of such tax, a sum in an amount equivalent to the processing tax which would have been payable with respect to the commodity from which processed if the processing had occurred on such date: *Provided*, That in the case of any commodity with respect to which there was any increase, effective prior to June 1, 1934, in the rate of the processing tax, no such refund, credit, or abatement, shall be in an amount which exceeds the equivalent of the initial rate of the processing tax in effect with respect to such commodity.

(b) The tax imposed by subsection (a) of this section shall not apply to the retail stocks of persons engaged in retail trade, held at the date the processing tax first takes effect; but such retail stocks shall not be deemed to include stocks held in a warehouse on such date, or such portion of other stocks held on such date as are not sold or otherwise disposed of within thirty days thereafter. Except as to flour and prepared flour, and cereal preparations made chiefly from wheat, as classified in Wheat Regulations, Series 1, Supplement 1, and as to any article processed wholly or in chief value from cotton, the tax refund, credit, or abatement provided in subsection (a) of this section shall not apply to the retail stocks of persons engaged in retail trade, nor to any article (except sugar) processed wholly or in chief value from sugar beets, sugarcane, or any product thereof, nor to any article (except flour, prepared flour and cereal preparations made chiefly from wheat, as classified in Wheat Regulations, Series 1, Supplement 1) processed wholly or in chief value from wheat, held on the date the processing tax is wholly terminated.

(c)(1) Any sugar, imported prior to the effective date of a processing tax on sugar beets and sugarcane, with respect to which it is established (under regulations prescribed by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury) that there was paid at the time of importation a duty at the rate in effect on January 1, 1934, and (2) any sugar held on April 25, 1934, by, or to be delivered under a bona fide contract of sale entered into prior to April 25, 1934, to, any manufacturer or converter, for use in the production of any article (except sugar) and not for ultimate consumption as sugar, and (3) any article (except sugar) processed wholly or in chief value from sugar beets, sugarcane, or any product thereof, shall be exempt from taxation under subsection (a) of this section, but sugar held in customs custody or control on April 25, 1934, shall not be exempt from taxation under subsection (a) of this section, unless the rate of duty paid upon the withdrawal thereof was the rate of duty in effect on January 1, 1934. The provisions of paragraph (2) of subsection (a) of this section shall not apply in the case of sugar beets or sugarcane or the products thereof.

(d) The Secretary of Agriculture is authorized to purchase, out of such proceeds of taxes as are available therefor, during the period this chapter is in effect with respect to sugar beets and sugarcane, not in excess of three hundred thousand tons of sugar raw value from the surplus stocks of direct-consumption sugar produced in the United States beet-sugar area, at a price not in excess of the market price for direct consumption sugar on the date of purchase, and to dispose of such sugar by sale or otherwise, including distribution to any organization for the relief of the unemployed, under such conditions and at such times as will tend to effectuate the declared policy of section 608a of this title. The sugar so purchased shall not be included in the quota for the United States beet-sugar area. All proceeds received by the

Secretary of Agriculture, in the exercise of the powers granted, are appropriated to be available to the Secretary of Agriculture for the purposes described in subsections (a) and (b) of section 612 of this title.

(e) Upon the sale or other disposition of any article processed wholly or in chief value from any commodity with respect to which the existing rate of the processing tax is to be increased, or decreased, that on the date such increase, or decrease, first takes effect with respect to the commodity, is held for sale or other disposition (including articles in transit) by any person, and upon the production of any article from a commodity in process on the date on which the rate of the processing tax is to be increased or decreased, there shall be made a tax adjustment as follows:

(1) Whenever, on or after June 1, 1934, the rate of the processing tax on the processing of the commodity generally or for any designated use or uses, or as to any designated product or products thereof for any designated use or uses, or as to any class of products, is decreased, there shall be credited or refunded to such person an amount equivalent to the difference between the rate of the processing tax payable or paid at the time immediately preceding the decrease in rate and the rate of the processing tax which would have been payable with respect to the commodity from which processed, if the processing had occurred on such date: *Provided, however,* That no such credit or refund shall be made in the case of hogs unless the rate of the processing tax immediately preceding said decrease is equal to, or less than, the rate of the processing tax in effect on the date on which any floor stocks tax was paid prior to the adoption of this subsection. In the case of wheat the provisions of this paragraph and of paragraph (2) of this subsection shall apply to flour, prepared flour and cereal preparations made chiefly from wheat, as classified in Wheat Regulations, Series 1, Supplement 1 only; in the case of sugarcane and sugar beets the provisions of this paragraph and of paragraph (2) of this subsection shall apply to sugar only.

(2) Whenever the rate of the processing tax on the processing of the commodity generally, or for any designated use or uses, or as to any designated product or products thereof for any designated use or uses, or as to any class of products, is increased, there shall be levied, assessed and collected a tax to be paid by such person equivalent to the difference between the rate of the processing tax payable or paid at the time immediately preceding the increase in rate and the rate of the processing tax which would be payable with respect to the commodity from which processed, if the processing had occurred on such date.

(3) Whenever the processing tax is suspended or is to be refunded pursuant to a certification of the Secretary of Agriculture to the Secretary of the Treasury, under section 615(a) of this title, the provisions of subdivision (1) of this subsection shall become applicable.

(4) Whenever the Secretary of Agriculture revokes any certification to the Secretary of the Treasury under section 615(a) of this title, the provisions of paragraph (2) of this subsection shall become applicable.

(5) The provisions of this subsection shall be effective on and after June 1, 1934.

(f) The provisions of this section shall not be applicable with respect to rice.

(May 12, 1933, ch. 25, title I, § 16, 48 Stat. 40; May 9, 1934, ch. 263, §§ 10, 17, 48 Stat. 676, 678; June 26, 1934, ch. 759, § 1, 48 Stat. 1241; Mar. 18, 1935, ch. 32, § 10, 49 Stat. 48; Aug. 24, 1935, ch. 641, §§ 20, 25–27, 49 Stat. 768, 769; June 4, 1936, ch. 501, 49 Stat. 1464; June 22, 1936, ch. 690, § 601(a), (c), (g), 49 Stat. 1739, 1740.)

AMENDMENTS

1936—Subsec. (e)(1). Act June 22, 1936, § 601(a), (g), reenacted par. (1) for certain refund purposes only and substituted "on or after June 1, 1934" for "subsequent to June 26, 1934", respectively.

Act June 4, 1936, substituted "on or after June 1, 1934" for "subsequent to June 26, 1934".

Subsec. (e)(3). Act June 22, 1936, § 601(a), reenacted par. (3) for certain refund purposes only.

Subsec. (g). Act June 22, 1936, § 601(c), repealed subsec. (g), which related to the time for filing refunds.

1935—Subsec. (a)(2). Act Aug. 24, 1935, § 25, substituted a new par. (2) for former par. (2).

Subsec. (b). Act Aug. 24, 1935, § 26, amended the second sentence generally.

Subsec. (c). Act Aug. 24, 1935, § 20, deleted the last sentence.

Subsec. (e). Act Mar. 18, 1935, redesignated former subsec. (c) as (e).

Subsec. (e)(1). Act Aug. 24, 1935, § 27(a), inserted "subsequent to June 26, 1934" at the beginning of the paragraph, and "in the case of hogs" following "made" in the proviso and added "In the case of wheat the provisions of this paragraph and of paragraph (2) of this subsection shall apply to flour, prepared flour and cereal preparations made chiefly from wheat, as classified in Wheat Regulations, Series 1, Supplement 1 only; in the case of sugarcane and sugar beets the provisions of this paragraph and of paragraph (2) of this subsection shall apply to sugar only."

Subsec. (f). Act Mar. 18, 1935, added subsec. (f).

Subsec. (g). Act Aug. 24, 1935, § 27(b), added subsec. (g).

1934—Subsec. (a)(1). Act May 9, 1934, § 10, added second sentence.

Subsec. (c). Act June 26, 1934, added subsec. (c).

Subsec. (c)(1). Act May 9, 1934, § 17, added subsec. (c)(1).

Subsec. (d). Act May 9, 1934, § 17, added subsec. (d).

SEPARABILITY OF PROVISIONS

Validity of remainder of this chapter as not affected should any of the provisions of this chapter be declared unconstitutional. See section 614 of this title.

TRANSFER OF FUNCTIONS

All functions of all officers of the Department of the Treasury, and all functions of all agencies and employees of such Department, were transferred, with certain exceptions, to the Secretary of the Treasury, with power vested in him to authorize their performance or the performance of any of his functions, by any of such officers, agencies, and employees, by 1950 Reorg. Plan No. 26, §§ 1, 2, eff. July 31, 1950, 15 F.R. 4935, 64 Stat. 1280, set out in the Appendix to Title 5, Government Organization and Employees. The Commissioner, of Internal Revenue, referred to in this section, is an officer of the Treasury Department.

CONSTITUTIONALITY

Section may be obsolete in view of the Supreme Court's holding that the processing and floor stock

taxes provided for by the Agricultural Adjustment Act of 1933 are unconstitutional. See U.S. v. Butler, Mass. 1936, 56 S. Ct. 312, 297 U.S. 1, 80 L. Ed. 477, 102 A.L.R. 914.

APPROPRIATIONS

Appropriations for refunds, etc., see note under section 610 of this title.

CROSS REFERENCES

Processing and compensating taxes not to be levied or collected, see section 673 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 609, 621, 673 of this title.

§ 617. Refund on goods exported; bond to suspend tax on commodity intended for export

(a) Upon the exportation to any foreign country (and/or to the Virgin Islands, American Samoa, the Canal Zone, and the island of Guam) of any product processed wholly or partly from a commodity with respect to which product or commodity a tax has been paid or is payable under this chapter, the tax due and payable or due and paid shall be credited or refunded. Under regulations prescribed by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, the credit or refund shall be allowed to the consignor named in the bill of lading under which the product is exported or to the shipper or to the person liable for the tax provided the consignor waives any claim thereto in favor of such shipper or person liable for the tax. In the case of rice, a tax due under this chapter which has been paid by a tax-payment warrant shall be deemed for the purposes of this subsection to have been paid; and with respect to any refund authorized under this section, the amount scheduled by the Commissioner of Internal Revenue for refunding shall be paid, any provision of law notwithstanding. In the case of sugar beets and sugarcane, this subsection shall be applicable to exports of products thereof to the Virgin Islands, American Samoa, the Canal Zone, and/or the island of Guam only if this chapter with respect to sugar beets and sugarcane is not made applicable thereto. The term "product" includes any product exported as merchandise, or as a container for merchandise, or otherwise.

(b) Upon the giving of bond satisfactory to the Secretary of the Treasury for the faithful observance of the provisions of this chapter requiring the payment of taxes, any person shall be entitled, without payment of the tax, to process for such exportation any commodity with respect to which a tax is imposed by this chapter, or to hold for such exportation any article processed wholly or partly therefrom.

(May 12, 1933, ch. 25, title I, § 17, 48 Stat. 40; May 9, 1934, ch. 263, §§ 12, 13, 48 Stat. 676; Mar. 18, 1935, ch. 32, § 11, 49 Stat. 48; Aug. 24, 1935, ch. 641, § 28, 49 Stat. 770; June 22, 1936, ch. 690, § 601(a), 49 Stat. 1739; Proc. No. 2695, eff. July 4, 1946, 11 F.R. 7871, 60 Stat. 1352.)

CODIFICATION

References to the Philippine Islands in subsec. (a) were omitted as obsolete in view of the independence proclaimed by the President of the United States by Proc. No. 2695, cited to text, which is set out as a note under section 1394 of Title 22, Foreign Relations and Intercourse.

AMENDMENTS

1936—Subsec. (a). Act June 22, 1936, reenacted subsec. (a) for refund purposes only.

1935—Subsec. (a). Act Aug. 24, 1935, deleted the first two sentences thereof and substituted "Upon the exportation to any foreign country (and/or to the Philippine Islands, the Virgin Islands, American Samoa, the Canal Zone, and the island of Guam) of any product processed wholly or partly from a commodity with respect to which product or commodity a tax has been paid or is payable under this chapter, the tax due and payable or due and paid shall be credited or refunded. Under regulations prescribed by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, the credit or refund shall be allowed to the consignor named in the bill of lading under which the product is exported or to the shipper or to the person liable for the tax provided the consignor waives any claim thereto in favor of such shipper or person liable for the tax."

Act Mar. 18, 1935, added the third sentence.

1934—Subsec. (a). Act May 9, 1934, amended subsec. (a) generally.

Subsec. (b). Act May 9, 1934, § 13, substituted "partly" for "in chief value" toward end of sentence.

SEPARABILITY OF PROVISIONS

Validity of remainder of this chapter as not affected should any of the provisions of this chapter be declared unconstitutional, see section 614 of this title.

TRANSFER OF FUNCTIONS

All functions of all officers of the Department of the Treasury, and all functions of all agencies and employees of such Department, were transferred, with certain exceptions, to the Secretary of the Treasury, with power vested in him to authorize their performance or the performance of any of his functions, by any of such officers, agencies, and employees, by 1950 Reorg. Plan. No. 26, §§ 1, 2, eff. July 31, 1950, 15 F.R. 4935, 64 Stat. 1280, set out in the Appendix to Title 5, Government Organization and Employees. The Commissioner of Internal Revenue, referred to in this section, is an officer of the Treasury Department.

CONSTITUTIONALITY

Unconstitutionality of processing and floor stock taxes, see note under section 616 of this title.

APPROPRIATIONS

Appropriations for refunds, etc., see note under section 610 of this title.

CROSS REFERENCES

Processing and compensating taxes not to be levied or collected, see section 673 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 673 of this title.

§ 618. Existing contracts; imposition of tax on vendee; collection

(a) If (1) any processor, jobber, or wholesaler has, prior to the date a tax with respect to any commodity is first imposed under this chapter, made a bona fide contract of sale for delivery on or after such date, of any article processed wholly or in chief value from such commodity, and if (2) such contract does not permit the addition to the amount to be paid thereunder of the whole of such tax, then (unless the contract prohibits such addition) the vendee shall pay so much of the tax as is not permitted to be added to the contract price.

(b) Taxes payable by the vendee shall be paid to the vendor at the time the sale is consummated and shall be collected and paid to the United States by the vendor in the same manner as other taxes under this chapter. In case of failure or refusal by the vendee to pay such taxes to the vendor, the vendor shall report the facts to the Commissioner of Internal Revenue who shall cause collections of such taxes to be made from the vendee.

(May 12, 1933, ch. 25, title I, § 18, 48 Stat. 41.)

SEPARABILITY OF PROVISIONS

Validity of remainder of this chapter as not affected should any of the provisions of this chapter be declared unconstitutional, see section 614 of this title.

TRANSFER OF FUNCTIONS

All functions of all officers of the Department of the Treasury, and all functions of all agencies and employees of such Department, were transferred, with certain exceptions, to the Secretary of the Treasury, with power vested in him to authorize their performance or the performance of any of his functions, by any of such officers, agencies, and employees, by 1950 Reorg. Plan No. 26, §§ 1, 2, eff. July 31, 1950, 15 F.R. 4935, 64 Stat. 1280, set out in the Appendix to Title 5, Government Organization and Employees. The Commissioner of Internal Revenue, referred to in this section, is an officer of the Treasury Department.

CONSTITUTIONALITY

Unconstitutionality of processing and floor stock taxes, see note under section 616 of this title.

CROSS REFERENCES

Processing and compensating taxes not to be levied or collected, see section 673 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 673 of this title.

§ 619. Collection of tax; provisions of internal revenue laws applicable; returns

(a) The taxes provided in this chapter shall be collected by the Bureau of Internal Revenue under the direction of the Secretary of the Treasury. Such taxes shall be paid into the Treasury of the United States.

(b) All provisions of law, including penalties, applicable with respect to the taxes imposed by section 600 of the Revenue Act of 1926, and the provisions of section 626 of the Revenue Act of 1932, shall, insofar as applicable and not inconsistent with the provisions of this chapter, be applicable in respect of taxes imposed by this chapter: *Provided*, That the Secretary of the Treasury is authorized to permit postponement, for a period not exceeding one hundred and eighty days, of the payment of not exceeding three-fourths of the amount of the taxes covered by any return under this chapter, but postponement of all taxes covered by returns under this chapter for a period not exceeding one hundred and eighty days may be permitted in cases in which the Secretary of the Treasury authorizes such taxes to be paid each month on the amount of the commodity marketed during the next preceding month.

(c) Repealed. June 30, 1947, ch. 166, title II, § 206(c), 61 Stat. 208.

(d) Under regulations made by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, any person required pursuant to the provisions of this chapter to file a return may be required to file such return and pay the tax shown to be due thereon to the collector of internal revenue for the district in which the processing was done or the liability was incurred. Whenever the Commissioner of Internal Revenue deems it necessary, he may require any person or class of persons handling or dealing in any commodity or product thereof, with respect to which a tax is imposed under the provisions of this chapter, to make a return, render under oath such statements, or to keep such records, as the Commissioner deems sufficient to show whether or not such person, or any other person, is liable for the tax.

(May 12, 1933, ch. 25, title I, § 19, 48 Stat. 41; June 26, 1934, ch. 759, § 3, 48 Stat. 1242; Aug. 24, 1935, ch. 641, § 29, 49 Stat. 770; June 30, 1947, ch. 166, title II, § 206(c), 61 Stat. 208.)

REFERENCES IN TEXT

Provisions of section 600 of the Revenue Act of 1926 and section 626 of the Revenue Act of 1932, referred to in subsec. (b), were incorporated in sections 2700, 2704, and 3448 of Title 26, Internal Revenue Code, 1939. See sections 4181, 4182, 4216, 4224, 5831, 6151 and 6601 of Title 26, Internal Revenue Code, 1954.

AMENDMENTS

1947—Subsec. (c). Act June 30, 1947, § 206(c), repealed subsec. (c), which related to loans by Reconstruction Finance Corporation.

1935—Subsec. (b). Act Aug. 24, 1935, § 29(a), among other changes, added at end of proviso "but postponement of all taxes covered by returns under this chapter for a period not exceeding one hundred and eighty days may be permitted in cases in which the Secretary of the Treasury authorizes such taxes to be paid each month on the amount of the commodity marketed during the next preceding month".

Subsec. (d). Act Aug. 24, 1935, § 29(b), added subsec. (d).

1934—Subsec. (b). Act June 26, 1934, substituted "one hundred and eighty" for "ninety".

SEPARABILITY OF PROVISIONS

Validity of remainder of this chapter as not affected should any of the provisions of this chapter be declared unconstitutional, see section 614 of this title.

TRANSFER OF FUNCTIONS

The office of Internal Revenue Collector was abolished by 1952 Reorg. Plan No. 1, § 1, eff. Mar. 14, 1952, 17 F.R. 2243, 66 Stat. 823, set out in the Appendix to Title 5, Government Organization and Employees, and by section 2 thereof a new office of district commissioner of internal revenue was established. Section 4 of the Plan transferred all functions, that had been vested by statute in any officer or employee of the Bureau of Internal Revenue since the effective date of 1950 Reorg. Plan No. 26, §§ 1, 2, 15 F.R. 4935, 64 Stat. 1280, 1281, to the Secretary of the Treasury.

All functions of all officers of the Department of the Treasury, and all functions of all agencies and employees of such Department, were transferred, with certain exceptions, to the Secretary of the Treasury, with power vested in him to authorize their performance or the performance of any of his functions, by any of those officers, agencies, and employees, by 1950 Reorg. Plan No. 26, §§ 1, 2, eff. July 31, 1950, 15 F.R. 4935, 64 Stat. 1280, set out in the Appendix to Title 5. The Collector and Commissioner of Internal Revenue, referred to in this section, are officers of the Treasury Department.

CONSTITUTIONALITY

Unconstitutionality of processing and floor stock taxes, see note under section 616 of this title.

CROSS REFERENCES

Processing and compensating taxes not to be levied or collected, see section 673 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 623, 673 of this title.

§ 619a. Cotton tax, time for payment

The processing tax authorized by section 609 of this title, when levied upon cotton, shall be payable ninety days after the filing of the processor's report: *Provided*, That, under regulations to be prescribed by the Secretary of the Treasury, the time for payment of such tax upon cotton may be extended, but in no case to exceed six months from the date of the filing of the report.

(May 17, 1935, ch. 131, title I, § 2, 49 Stat. 281.)

CODIFICATION

Section was not enacted as part of the Agricultural Adjustment Act, which comprises this chapter.

SEPARABILITY OF PROVISIONS

Validity of remainder of this chapter as not affected should any of the provisions of this chapter be declared unconstitutional, see section 614 of this title.

CONSTITUTIONALITY

Unconstitutionality of processing and floor stock taxes, see note under section 616 of this title.

§ 620. Falsely ascribing deductions or charges to taxes; penalty

(a) Whoever in connection with the purchase of, or offer to purchase, any commodity, subject to any tax under this chapter, or which is to be subjected to any tax under this chapter, makes any statement, written or oral, (1) intended or calculated to lead any person to believe that any amount deducted from the market price or the agreed price of the commodity consists of a tax imposed under this chapter, or (2) ascribing a particular part of the deduction from the market price or the agreed price of the commodity, to a tax imposed under this chapter, knowing that such statement is false or that the tax is not so great as the amount deducted from the market price or the agreed price of the commodity, ascribed to such tax, shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not more than $1,000 or by imprisonment for not exceeding six months, or both.

(b) Whoever in connection with the processing of any commodity subject to any tax under this chapter, whether commercially, for toll, upon an exchange, or otherwise, makes any statement, written or oral, (1) intended or calculated to lead any person to believe that any part of the charge for said processing, whether commercially, for toll, upon an exchange, or otherwise, consists of a tax imposed under this chapter, or (2) ascribing a particular part of the charge for processing, whether commercially, for toll, upon an exchange, or otherwise, to a tax imposed under this chapter, knowing that such statement is false, or that the tax is not so great as the amount charged for said processing ascribed to such tax, shall be guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine of not more than $1,000 or by imprisonment for not exceeding six months, or both.

(c) Whoever in connection with any settlement, under a contract to buy any commodity, and/or to sell such commodity, or any product or byproduct thereof, subject to any tax under this chapter, makes any statement, written or oral, (1) intended or calculated to lead any person to believe that any amount deducted from the gross sales price, in arriving at the basis of settlement under the contract, consists of a tax under this chapter, or (2) ascribing a particular amount deducted from the gross sales price, in arriving at the basis of settlement under the contract, to a tax imposed under this chapter, knowing that such statement is false, or that the tax is not so great as the amount so deducted and/or ascribed to such tax, shall be guilty of a misdemeanor, and, upon conviction thereof, shall be punished by a fine of not more than $1,000 or by imprisonment for not exceeding six months, or both.

(May 12, 1933, ch. 25, title I, § 20, as added May 9, 1934, ch. 263, § 16, 48 Stat. 677.)

CONSTITUTIONALITY

Unconstitutionality of processing and floor stock taxes, see note under section 616 of this title.

CROSS REFERENCES

Misdemeanor, defined, see section 1 of Title 18, Crimes and Criminal Procedure.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 673 of this title.

§ 621. Machinery belting processed from cotton; exemption from tax

The provisions of section 616 of this title, shall not apply to articles of machinery belting processed wholly or in chief value from cotton, if such processing was completed prior to January 1, 1930.

(June 26, 1934, ch. 753, § 1, 48 Stat. 1223.)

CODIFICATION

Section was not enacted as part of the Agricultural Adjustment Act, which comprises this chapter.

§ 622. Omitted

CODIFICATION

Section, act June 26, 1934, ch. 753, § 2, 48 Stat. 1223, related to the refunding or crediting of taxes paid under section 616 of this title, and was omitted as executed.

§ 623. Actions relating to tax; legalization of prior taxes.

(a) Action to restrain collection of tax or obtain declaratory judgment forbidden

No suit, action, or proceeding (including probate, administration, receivership, and bankruptcy proceedings) shall be brought or maintained in any court if such suit, action, or proceeding is for the purpose or has the effect (1) of preventing or restraining the assessment or

collection of any tax imposed or the amount of any penalty or interest accrued under this chapter on or after August 24, 1935, or (2) of obtaining a declaratory judgment under sections 2201 and 2202 of title 28 in connection with any such tax or such amount of any such interest or penalty. In probate, administration, receivership, bankruptcy, or other similar proceedings, the claim of the United States for any such tax or such amount of any such interest or penalty, in the amount assessed by the Commissioner of Internal Revenue, shall be allowed and ordered to be paid, but the right to claim the refund or credit thereof and to maintain such claim pursuant to the applicable provisions of law, including subsection (d) of this section, may be reserved in the court's order.

(b) Taxes imposed prior to August 24, 1935, legalized and ratified

The taxes imposed under this chapter, as determined, prescribed, proclaimed and made effective by the proclamations and certificates of the Secretary of Agriculture or of the President and by the regulations of the Secretary with the approval of the President prior to August 24, 1935, are legalized and ratified, and the assessment, levy, collection, and accrual of all such taxes (together with penalties and interest with respect thereto) prior to said date are legalized and ratified and confirmed as fully to all intents and purposes as if each such tax had been made effective and the rate thereof fixed specifically by prior Act of Congress. All such taxes which had accrued and remained unpaid August 24, 1935, shall be assessed and collected pursuant to section 619 of this title, and to the provisions of law made applicable thereby. Nothing in this section shall be construed to import illegality to any act, determination, proclamation, certificate, or regulation of the Secretary of Agriculture or of the President done or made prior to August 24, 1935.

(c) Rental and benefit payments, agreements, and programs made prior to August 24, 1935, legalized and ratified

The making of rental and benefit payments under this chapter, prior to August 24, 1935, as determined, prescribed, proclaimed and made effective by the proclamations of the Secretary of Agriculture or of the President or by regulations of the Secretary, and the initiation, if formally approved by the Secretary of Agriculture prior to such date of adjustment programs under section 608(1) of this title, and the making of agreements with producers prior to such date, and the adoption of other voluntary methods prior to such date, by the Secretary of Agriculture under this chapter, and rental and benefit payments made pursuant thereto, are legalized and ratified, and the making of all such agreements and payments, the initiation of such programs, and the adoption of all such methods prior to such date are legalized, ratified, and confirmed as fully to all intents and purposes as if each such agreement, program, method, and payment had been specifically authorized and made effective and the rate and amount thereof fixed specifically by prior act of Congress.

(May 12, 1933, ch. 25, title I, § 21, as added Aug. 24, 1935, ch. 641, § 30, 49 Stat. 770, and amended June 22, 1936, ch. 690, §§ 601(c), 901, 49 Stat. 1739, 1747.)

REFERENCES IN TEXT

Subsection (d) of this section, referred to in subsec. (a), was repealed by act June 26, 1936, § 901.

CODIFICATION

"Sections 2201 and 2202 of title 28" was substituted for "the Federal Declaratory Judgments Act", which had enacted section 400 of former Title 28, Judicial Code and Judiciary, on authority of act June 25, 1948, ch. 646, 62 Stat. 869, section 1 of which enacted Title 28, Judiciary and Judicial Procedure.

AMENDMENTS

1936—Subsecs. (d) to (g). Act June 22, 1936, § 901, repealed subsec. (d), relating to prohibition on making certain refunds, subsec. (e), providing for access to books, and subsec. (g), providing for recovery of taxes erroneously collected, and act June 22, 1936, § 601(c), repealed subsec. (f), relating to time for filing claim for refund.

SEPARABILITY OF PROVISIONS

Validity of remainder of this chapter as not affected should any of the provisions of this chapter be declared unconstitutional, see section 614 of this title.

TRANSFER OF FUNCTIONS

All functions of all officers of the Department of the Treasury, and all functions of all agencies and employees of such Department, were transferred, with certain exceptions, to the Secretary of the Treasury, with power vested in him to authorize their performance or the performance of any of his functions, by any of such officers, agencies, and employees, by 1950 Reorg. Plan No. 26, §§ 1, 2, eff. July 31, 1950, 15 F.R. 4935, 64 Stat. 1280, set out in the Appendix to Title 5, Government Organization and Employees. The Commissioner of Internal Revenue, referred to in this section, is an officer of the Treasury Department.

CONSTITUTIONALITY

Unconstitutionality of processing and floor stock taxes, see note under section 616 of this title.

CROSS REFERENCES

Other refund provisions, see section 615 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 615, 673 of this title.

§ 624. Limitation on imports; authority of President

(a) Whenever the Secretary of Agriculture has reason to believe that any article or articles are being or are practically certain to be imported into the United States under such conditions and in such quantities as to render or tend to render ineffective, or materially interfere with, any program or operation undertaken under this chapter or the Soil Conservation and Domestic Allotment Act, as amended [16 U.S.C. 590a et seq.], or section 612c of this title, or any loan, purchase, or other program or operation undertaken by the Department of Agriculture, or any agency operating under its direction, with respect to any agricultural commodity or product thereof, or to reduce substantially the amount of any product processed in the United States from any agricultural commodity or product thereof with respect to which any such program or operation is being undertaken, he shall so advise the President, and, if the President agrees that there is reason

for such belief, the President shall cause an immediate investigation to be made by the United States International Trade Commission, which shall give precedence to investigations under this section to determine such facts. Such investigation shall be made after due notice and opportunity for hearing to interested parties, and shall be conducted subject to such regulations as the President shall specify.

(b) If, on the basis of such investigation and report to him of findings and recommendations made in connection therewith, the President finds the existence of such facts, he shall by proclamation impose such fees not in excess of 50 per centum ad valorem or such quantitative limitations on any article or articles which may be entered, or withdrawn from warehouse, for consumption as he finds and declares shown by such investigation to be necessary in order that the entry of such article or articles will not render or tend to render ineffective, or materially interfere with, any program or operation referred to in subsection (a) of this section, or reduce substantially the amount of any product processed in the United States from any such agricultural commodity or product thereof with respect to which any such program or operation is being undertaken: *Provided*, That no proclamation under this section shall impose any limitation on the total quantity of any article or articles which may be entered, or withdrawn from warehouse, for consumption which reduces such permissible total quantity to proportionately less than 50 per centum of the total quantity of such article or articles which was entered, or withdrawn from warehouse, for consumption during a representative period as determined by the President: *And provided further*, That in designating any article or articles, the President may describe them by physical qualities, value, use, or upon such other bases as he shall determine.

In any case where the Secretary of Agriculture determines and reports to the President with regard to any article or articles that a condition exists requiring emergency treatment, the President may take immediate action under this section without awaiting the recommendations of the International Trade Commission, such action to continue in effect pending the report and recommendations of the International Trade Commission and action thereon by the President.

(c) The fees and limitations imposed by the President by proclamation under this section and any revocation, suspension, or modification thereof, shall become effective on such date as shall be therein specified, and such fees shall be treated for administrative purposes and for the purposes of section 612c of this title, as duties imposed by the Tariff Act of 1930 [19 U.S.C. 1202 et seq.], but such fees shall not be considered as duties for the purpose of granting any preferential concession under any international obligation of the United States.

(d) After investigation, report, finding, and declaration in the manner provided in the case of a proclamation issued pursuant to subsection (b) of this section, any proclamation or provision of such proclamation may be suspended or terminated by the President whenever he finds and proclaims that the circumstances requiring the proclamation or provision thereof no longer exist or may be modified by the President whenever he finds and proclaims that changed circumstances require such modification to carry out the purposes of this section.

(e) Any decision of the President as to facts under this section shall be final.

(f) No trade agreement or other international agreement heretofore or hereafter entered into by the United States shall be applied in a manner inconsistent with the requirements of this section.

(May 12, 1933, ch. 25, title I, § 22, as added Aug. 24, 1935, ch. 641, § 31, 49 Stat. 773, and amended Feb. 29, 1936, ch. 104, § 5, 49 Stat. 1152; June 3, 1937, ch. 296, § 1, 50 Stat. 246; Jan. 25, 1940, ch. 13, 54 Stat. 17; July 3, 1948, ch. 827, title I, § 3, 62 Stat. 1248; June 28, 1950, ch. 381, § 3, 64 Stat. 261; June 16, 1951, ch. 141, § 8(b), 65 Stat. 75; Aug. 7, 1953, ch. 348, title I, § 104, 67 Stat. 472; Jan. 3, 1975, Pub. L. 93-618, title I, § 171, 88 Stat. 2009.)

REFERENCES IN TEXT

The Soil Conservation and Domestic Allotment Act, as amended, referred to in subsec. (a), is act Apr. 27, 1935, ch. 85, 49 Stat. 163, as amended, which is classified generally to chapter 3B (§ 590a et seq.) of Title 16, Conservation. For complete classification of this Act to the Code, see Tables volume.

The Tariff Act of 1930, referred to in subsec. (c), is act June 17, 1930, ch. 497, 46 Stat. 590, as amended, which is classified generally to chapter 4 (§ 1202 et seq.) of Title 19, Customs Duties. For complete classification of this Act to the Code, see Tables volume.

AMENDMENTS

1953—Subsec. (b) amended by subsec. (c) of section 8 of act June 16, 1951, as added to section 8 by act Aug. 7, 1953, which added second paragraph to subsec. (b).

1951—Subsec. (f). Act June 16, 1951, amended subsec. (f) generally to provide that no trade agreement concessions can be construed to interfere with the operation of agricultural programs.

1950—Subsec. (a). Act June 28, 1950, placed upon the Secretary of Agriculture the responsibility of notifying the President whenever the Secretary believes or has reason to believe that any article or articles are being or practically certain to be brought into this country so as to render, or tend to render ineffective or materially interfere with programs undertaken under this chapter.

Subsecs. (b) to (e). Act June 28, 1950, reenacted subsecs. (b) to (e) without change.

Subsec. (f). Act June 28, 1950, made certain that future international agreements or amendments to existing agreements give effect to this section within the framework of the general agreements on tariffs and trade.

1948—Act July 3, 1948, amended section generally to extend the authority of this section to agriculture products as well as commodities; to extend such authority to cover articles the import of which affects any loan, purchase, or other Departmental operation or program; to make quantitative limitation restrictions applicable to the total quantity of an article imported during a representative period as determined by the President, rather than to each country's average annual quantity of the article imported during the period from Jan. 1, 1929, to Dec. 31, 1933, as formerly provided; to give the President a specific grant of authority to describe designated articles by physical qualities, value, use, or upon such bases as he determines; to clarify the definition respecting authorized fees, which formerly were considered duties for some purposes, so that they no longer shall be considered as duties for the purpose of granting any preferential concession under any international obligation of the

United States; and, to prohibit the enforcement of a proclamation under this section which would be in contravention to any treaty or international agreement to which the United States is a part.

1940—Subsecs. (a) to (c). Act Jan. 25, 1940, amended subsecs. (a) to (c) generally.

1936—Act Feb. 29, 1936, inserted after "this title" wherever the words appear "the Soil Conservation and Domestic Allotment Act", and struck out "an adjustment" wherever the words appeared and inserted in lieu thereof "any".

CHANGE OF NAME

United States Tariff Commission, referred to in subsecs. (a) and (b), redesignated United States International Trade Commission by Pub. L. 93-618, title I, § 171(a), Jan. 3, 1975, 88 Stat. 2009. See section 2231 of Title 19, Customs Duties.

EFFECTIVE DATE OF 1948 AMENDMENT

Section 6 of act July 3, 1948, provided that the amendment of this section by section 3 of act July 3, 1948, shall be effective July 3, 1948.

CONSTITUTIONALITY

Unconstitutionality of processing and floor stock taxes, see note under section 616 of this title.

VALIDITY OF SECTION AFFIRMED

Act June 3, 1937, affirmed and validated, and reenacted without change the provisions of this section. See note to section 601 of this title.

DAIRY IMPORT STUDY BY SECRETARY OF AGRICULTURE; REPORT TO CONGRESS BY JAN. 1, 1975

Pub. L. 91-524, title II, § 205, as added Pub. L. 93-86, § 1(6), Aug. 10, 1973, 87 Stat. 223, and amended Pub. L. 93-125, § 1(a)(i), Oct. 18, 1973, 87 Stat. 450, authorized the Secretary of Agriculture to determine the effect upon domestic dairy producers, handlers, and processors and upon consumers of increases in the level of imports, if any, of dairy products and report his findings, together with any recommendations he may have with respect to import quotas or other matters, to the Congress of the United States no later than Jan. 1, 1975, defined dairy products as including (1) all forms of milk and dairy products, butterfat, milk solids-not-fat, and any combination or mixture thereof; (2) any article, compound, or mixture containing 5 per centum or more of butterfat, or milk solids-not-fat, or any combinations of the two; and (3) lactose, and other derivatives of milk, butterfat, or milk solids-not-fat, if imported commercially for any food use, and excluded from the definition of dairy products (1) casein, caseinates, industrial casein, industrial caseinates, or any other industrial products, not to be used in any form for any food use, or an ingredient of food; or (2) articles not normally considered to be dairy products, such as candy, bakery goods, and other similar articles.

PROC. NO. 3178. QUOTA ON BUTTER SUBSTITUTES

Proc. No. 3178, Apr. 17, 1957, 22 F.R. 2701, provided:

NOW, THEREFORE, I, DWIGHT D. EISENHOWER, President of the United States of America, acting under and by virtue of the authority vested in me by the said section 22 of the Agricultural Adjustment Act [this section], do hereby proclaim that the total aggregate quantity of butter substitutes, including butter oil, containing 45 per centum or more of butterfat and classifiable under paragraph 709 of the Tariff Act of 1930, as amended, which shall be permitted to be entered, or withdrawn from warehouse, for consumption during the calendar year 1958 and each subsequent calendar year shall not exceed 1,200,000 pounds. The specified quantities of the named articles which may be entered, or withdrawn from warehouse, for consumption are not proportionately less than 50 per centum of the total quantities of such articles entered, or withdrawn from warehouse, for consumption during the representative period from January 1, 1956, to December 31, 1956, inclusive.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Seal of the United States of America to be affixed.

DONE at the City of Washington this fifteenth day of April in the year of our Lord nineteen hundred and fifty-seven, and of the Independence of the United States of America the one hundred and eighty-first.

[SEAL]

DWIGHT D. EISENHOWER.

PROCLAMATION NO. 3306

Proc. No. 3306, Aug. 7, 1959, 24 F.R. 6407, which provided for quotas on imports of rye, rye flour, and rye meal terminated on June 30, 1961.

PROCLAMATION NO. 3378

Proc. No. 3378, Oct. 31, 1960, 25 F.R. 10449, relating to quotas on imports of tung oil and tung nuts, was terminated by Proc. No. 3471, May 2, 1962, 27 F.R. 4271.

PROC. NO. 3428. IMPORT RESTRICTIONS ON CERTAIN COTTON PRODUCTS

Proc. No. 3428, Sept. 11, 1961, 26 F.R. 8535, provided:

WHEREAS, pursuant to section 22 of the Agricultural Adjustment Act, as amended (7 U.S.C. 624) [this section], the Secretary of Agriculture advised the President that he had reason to believe that certain cotton products produced in any stage preceding the spinning into yarn are being or are practically certain to be imported into the United States under such conditions and in such quantities as to render or tend to render ineffective, or materially interfere with, the price-support program and other programs or operations undertaken by the Department of Agriculture with respect to cotton or products thereof, or to reduce substantially the amount of cotton processed in the United States from cotton or products thereof with respect to which any such program or operation is being undertaken; and

WHEREAS, on January 18, 1961, under the authority of the said section 22 [this section], the President requested the United States Tariff Commission [now the United States International Trade Commission] to make an investigation with respect to this matter; and

WHEREAS, in accordance with the said section 22 [this section], as implemented by Executive Order No. 7233 of November 23, 1935, the Tariff Commission has made such investigation and has reported to me its findings and recommendations made in connection therewith; and

WHEREAS, on the basis of the investigation and report of the Tariff Commission, I find that the articles with respect to which import restrictions are hereinafter proclaimed are being or are practically certain to be imported into the United States under such conditions and in such quantities as to render or tend to render ineffective, or materially interfere with, the price-support program and other programs or operations undertaken by the Department of Agriculture with respect to cotton or products thereof; and

WHEREAS I find and declare that the important restrictions hereinafter proclaimed are shown by such investigation of the Tariff Commission to be necessary in order that the entry, or withdrawal from warehouse, for consumption of the said articles will not render or tend to render ineffective, or materially interfere with, the price-support program and other programs or operations undertaken by the Department of Agriculture with respect to cotton or products thereof;

NOW, THEREFORE, I, JOHN F. KENNEDY, President of the United States of America, acting under and by virtue of the authority vested in me by section 22 of the Agricultural Adjustment Act, as amended [this section], do hereby proclaim that the total aggregate quantity of cotton products produced in any stage preceding the spinning into yarn, except cotton wastes, which may be entered, or withdrawn from

warehouse, for consumption in any 12-month period, beginning September 11 in 1961 and in subsequent years shall not exceed 1,000 pounds, which permissible total quantity I find and declare to be proportionately not less than 50 per centum of the total quantity of such articles entered, or withdrawn from warehouse, for consumption during the representative period from January 1, 1940, to December 31, 1953, inclusive.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Seal of the United States of America to be affixed.

DONE at the City of Washington this 11th day of September in the year of our Lord nineteen hundred and sixty-one, and of the Independence of the United States of America the one hundred and eighty-sixth.

[SEAL]

JOHN F. KENNEDY.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 672, 673, 1347, 1392, 1852, 1854 of this title; title 19 sections 1360, 1366, 1887.

SUBCHAPTER IV—REFUNDS

APPROPRIATIONS FOR REFUNDS AND PAYMENTS OF PROCESSING AND RELATED TAXES AND LIMITATIONS THEREON

Acts June 25, 1938, ch. 681, 52 Stat. 1150; May 6, 1939, ch. 115, § 1, 53 Stat. 661, 662; Feb. 12, 1940, ch. 28, § 1, 54 Stat. 36; Mar. 25, 1940, ch. 71, title I, 54 Stat. 61; May 31, 1941, ch. 156, title I, § 1, 55 Stat. 218; Mar. 10, 1942, ch. 178, title I, § 1, 56 Stat. 156; June 30, 1943, ch. 179, title I, 57 Stat. 257; Apr. 22, 1944, ch. 175, title I, § 1, 58 Stat. 201; Apr. 24, 1945, ch. 92, title I, 59 Stat. 62; July 20, 1946, ch. 588, title I, 60 Stat. 574.

CROSS REFERENCES

Abatements, credits, and refunds of internal revenue taxes, see chapter 65 of Title 26, Internal Revenue Code.

§§ 641 to 659. Omitted

CODIFICATION

Section 641, act June 22, 1936, ch. 690, §§ 601, 49 Stat. 1739, 1740, related to refunds in cases where exports, deliveries for charitable distribution or use, manufacture of large cotton bags, or the decrease in the rate of the processing tax took place prior to January 6, 1936, specified the persons entitled to refunds, and the filing and determination of claims.

Section 642, acts June 22, 1936, ch. 690, § 602, 49 Stat. 1740; Aug. 10, 1939, ch. 666, title IX, § 911, 53 Stat. 1402, specified the amount of the refunds on articles processed wholly or in chief value from a commodity subject to processing tax, defined certain terms, prohibited payments with respect to retail floor stocks with some exceptions, and made final the determinations of the Commissioner of Internal Revenue with respect to such payments.

Section 643, act June 22, 1936, ch. 690, § 603, 49 Stat. 1742, made applicable the proclamations, certificates, and regulations of this chapter for the purpose of determining the amount of refunds or payments authorized by former sections 641 and 642.

Section 644, acts June 22, 1936, ch. 690, § 902, 49 Stat. 1747; Oct. 21, 1942, ch. 619, title V, §§ 504(a), (c), 510(e), 56 Stat. 957, 968, conditioned the allowance of refunds on a showing by the claimant that he bore the burden of the tax or that he repaid such amount unconditionally to his vendee.

Section 645, acts June 22, 1936, ch. 690, § 903, 49 Stat. 1747; June 29, 1939, ch. 247, title IV, § 405, 53 Stat. 884, prohibited refunds except where claims were filed after June 22, 1936, and prior to January 1, 1940, and provided for regulations relating to the filing of such claims.

Section 646, act June 22, 1936, ch. 690, § 904, 49 Stat. 1747, provided that no action could be brought before the expiration of eighteen months from the date of filing of a claim, or after the expiration of two years from the date of mailing to the claimant of a notice disallowing the claim.

Section 647, act June 22, 1936, ch. 690, § 905, 49 Stat. 1748, provided for the District Courts of the United States to have concurrent jurisdiction with the Court of Claims or refund cases regardless of the amount in controversy.

Section 648, acts June 22, 1936, ch. 690, § 906, 49 Stat. 1748; Oct. 21, 1942, ch. 619, title V, §§ 504(a), (c), 510(b), (f)(1), (g–j), 56 Stat. 957, 967; June 25, 1948, ch. 646, § 32, 62 Stat. 991; May 24, 1949, ch. 139, § 127, 63 Stat. 107, related to the procedure on claims for refunds of processing taxes, review of the actions of the Commissioner of Internal Revenue by the Tax Court, and review of the Tax Court decisions by the Courts of Appeals.

Section 649, act June 22, 1936, ch. 690, § 907, 49 Stat. 1751, related to evidence and presumptions.

Section 650, act June 22, 1936, ch. 690, § 908, 49 Stat. 1753, placed limitations on the allowance of claims and interest.

Section 651, act June 22, 1936, ch. 690, § 909, 49 Stat. 1753, provided that, in the absence of fraud or mistake, the findings of fact and conclusions of law of the Commissioner was conclusive on any other administrative or accounting officer.

Section 652, act June 22, 1936, ch. 690, § 910, 49 Stat. 1753, related to the liability of collectors.

Section 653, act June 22, 1936, ch. 690, § 911, 49 Stat. 1753, made the provisions of former sections 644–659 of this title inapplicable to certain refunds.

Section 654, act June 22, 1936, ch. 690, § 912, 49 Stat. 1754, provided that suits or proceedings, and claims barred on June 22, 1936, shall remain barred.

Section 655, act June 22, 1936, ch. 690, § 913, 49 Stat. 1754, defined the terms "tax", "processing tax," "commodity", "article", "refund", and "Agricultural Adjustment Act".

Section 656, act June 22, 1936, ch. 690, § 914, 49 Stat. 1754, related to the authority of the Commissioner of Internal Revenue.

Section 657, act June 22, 1936, ch. 690, § 915, 49 Stat. 1755, relating to salaries and administrative expenses, made funds available until June 30, 1937, and was not extended.

Section 658, act June 22, 1936, ch. 690, § 916, 49 Stat. 1755, provided that the Commissioner of Internal Revenue, with the approval of the Secretary of Agriculture, prescribe rules and regulations for carrying out the provisions of former sections 644 to 659 of this title.

Section 659, act June 22, 1936, ch. 690, § 917, 49 Stat. 1755, related to personnel.

CHAPTER 26A—AGRICULTURAL MARKETING AGREEMENTS

Sec.
671. Arbitration of dispute concerning milk.
(a) Application.
(b) Conduct of meetings.
(c) Approval of award.
(d) Exemption from antitrust laws.
672. Agreements; licenses, regulations, programs, etc., unaffected.
673. Taxes under Agricultural Adjustment Act; laws unaffected.
674. Omitted.

§ 671. Arbitration of disputes concerning milk

(a) Application

The Secretary of Agriculture, or such officer or employee of the Department of Agriculture as may be designated by him, upon written application of any cooperative association, incorporated or otherwise, which is in good faith owned or controlled by producers or organiza-

tions thereof, of milk or its products, and which is bona fide engaged in collective processing or preparing for market or handling or marketing (in the current of interstate or foreign commerce, as defined by section 610(j) of this title), milk or its products, may mediate and, with the consent of all parties, shall arbitrate if the Secretary has reason to believe that the declared policy of the Agricultural Adjustment Act [7 U.S.C. 601 et seq.], as amended, would be effectuated thereby, bona fide disputes, between such associations and the purchasers or handlers, or processors or distributors of milk or its products, as to terms and conditions of the sale of milk or its products. The power to arbitrate under this section shall apply only to such subjects of the term or condition in dispute as could be regulated under the provisions of the Agricultural Adjustment Act, as amended, relating to orders for milk and its products.

(b) Conduct of meetings

Meeting held pursuant to this section shall be conducted subject to such rules and regulations as the Secretary may prescribe.

(c) Approval of award

No award or agreement resulting from any such arbitration or mediation shall be effective unless and until approved by the Secretary of Agriculture, or such officer or employee of the Department of Agriculture as may be designated by him, and shall not be approved if it permits any unlawful trade practice or any unfair method of competition.

(d) Exemption from antitrust laws

No meeting so held and no award or agreement so approved shall be deemed to be in violation of any of the antitrust laws of the United States.

(June 3, 1937, ch. 296, § 3, 50 Stat. 248.)

REFERENCES IN TEXT

The Agricultural Adjustment Act, as amended, referred to in subsec. (a), is title I of act May 12, 1933, ch. 25, 48 Stat. 31, which is classified generally to chapter 26 (§ 601 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 601 of this title and Tables volume.

The antitrust laws, referred to in subsec. (d), are classified to chapter 1 (§ 1 et seq.) of Title 15, Commerce and Trade.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1392 of this title.

§ 672. Agreements; licenses, regulations, programs, etc., unaffected

(a) Nothing in this Act shall be construed as invalidating any marketing agreement, license, or order, or any regulation relating to, or any provision of, or any act of the Secretary of Agriculture in connection with, any such agreement, license, or order which has been executed, issued, approved, or done under the Agricultural Adjustment Act [7 U.S.C. 601 et seq.], or any amendment thereof, but such marketing agreements, licenses, orders, regulations, provisions, and acts are expressly ratified, legalized, and confirmed.

(b) Any program in effect under the Agricultural Adjustment Act [7 U.S.C. 601 et seq.], as reenacted and amended by this Act, on January 1, 1950, shall continue in effect without the necessity for any amendatory action relative to such program, but any such program shall be continued in operation by the Secretary of Agriculture only to establish and maintain such orderly marketing conditions as will tend to effectuate the declared purpose set out in section 2 or 8c(18) of the Agricultural Adjustment Act [7 U.S.C. 602 or 608c(18)], as reenacted and amended by this Act.

(June 3, 1937, ch. 296, § 4, 50 Stat. 249; July 3, 1948, ch. 827, title III, § 302(e), 62 Stat. 1258.)

REFERENCES IN TEXT

This Act, referred to in subsecs. (a) and (b), is act June 3, 1937, ch. 296, §§ 1 to 6, 50 Stat. 246. For classification of this Act to the Code, see Tables volume.

The Agricultural Adjustment Act, referred to in subsecs. (a) and (b), is title I of act May 12, 1933, ch. 25, 48 Stat. 31, which is classified generally to chapter 26 (§ 601 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 601 of this title and Tables volume.

AMENDMENTS

1948—Subsec. (a). Act July 3, 1948, designated existing provisions as subsec. (a).

Subsec. (b). Act July 3, 1948, added subsec. (b).

EFFECTIVE DATE OF 1948 AMENDMENT

Amendment by act July 3, 1948, effective Jan. 1, 1950, see note set out under section 1301 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1392 of this title.

§ 673. Taxes under Agricultural Adjustment Act; laws unaffected

No processing taxes or compensating taxes shall be levied or collected under the Agricultural Adjustment Act [7 U.S.C. 601 et seq.], as amended. Except as provided in the preceding sentence, nothing in this Act shall be construed as affecting provisions of the Agricultural Adjustment Act, as amended, other than those enumerated in section 1 of Act of June 3, 1937, ch. 296, 50 Stat. 246. The provisions so enumerated shall apply in accordance with their terms (as amended by this Act) to the provisions of the Agricultural Adjustment Act, this Act, and other provisions of law to which they have been heretofore made applicable.

(June 3, 1937, ch. 296, § 5, 50 Stat. 249.)

REFERENCES IN TEXT

The Agricultural Adjustment Act, as amended, referred to in text, is title I of act May 12, 1933, ch. 25, 48 Stat. 31, which is classified generally to chapter 26 (§ 601 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 601 of this title and Tables volume.

This Act, referred to in the text, is act June 3, 1937, ch. 296, §§ 1 to 6, 50 Stat. 246. For classification of this Act to the Code, see Tables volume.

Section 1 of act June 3, 1937, ch. 296, 50 Stat. 246, referred to in text, amended sections 601, 602, 608a, 608b, 608c, 608d, former section 608e, sections 610, 612, 614, and 624 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1392 of this title.

§ 674. Omitted

CODIFICATION

Section, act June 3, 1937, ch. 296, § 6, 50 Stat. 249, provided that such act might be cited as the Agricultural Marketing Agreement Act of 1937. Sections 1 and 2 of that act amended sections 601, §02, 608a, 608b, 608c, 608d, former section 608e, sections 610, 612, 614, and 624 of this title, and sections 3 to 5 are classified to sections 671 to 673 of this title.

CHAPTER 27—COTTON MARKETING

Sec.
701 to 723. Repealed.
724. Development of new uses for cotton.
725. Repealed.
726. Omitted.

§§ 701 to 723. Repealed. Feb. 10, 1936, ch. 42, 49 Stat. 1106

Sections, acts Apr. 21, 1934, ch. 157, §§ 1 to 2, 48 Stat. 598 to 606; Aug. 9, 1935, ch. 504, 49 Stat. 570; Aug. 24, 1935, ch. 641, §§ 39(a) to (e), 40 to 42, 49 Stat. 777, 778, related to the placing of the cotton industry on a sound commercial basis, to preventing unfair competition and practices in putting cotton into the channels of interstate and foreign commerce and to providing funds for paying additional benefits under the Agricultural Adjustment Act.

COLLECTION OF UNPAID TAXES

Act Mar. 2, 1936, ch. 112, 49 Stat. 1155, amending act Feb. 10, 1936, ch. 42, 49 Stat. 1106, which repealed sections 722 and 723, provided that no tax, civil penalty, or interest which accrued under any provision of law repealed by said act Feb. 10, 1936, and which was uncollected on the date of the enactment of said act Feb. 10, 1936, was to be collected; and all liens for taxes, civil penalties, or interest arising out of taxes under such provisions of law were cancelled and released.

APPROPRIATIONS FOR REFUNDS AND PAYMENTS OF PROCESSING AND RELATED TAXES AND LIMITATIONS THEREON

Acts June 25, 1938, ch. 681, 52 Stat. 1150; May 6, 1939, ch. 115, § 1, 53 Stat. 661, 662; Feb. 12, 1940, ch. 28, § 1, 54 Stat. 36; Mar. 25, 1940, ch. 71, title I, 54 Stat. 61; May 31, 1941, ch. 156, title I, § 1, 55 Stat. 219; Mar. 10, 1942, ch. 178, title I, § 1, 56 Stat. 156; June 30, 1943, ch. 179, title I, 57 Stat. 257; Apr. 22, 1944, ch. 175, title I, § 1, 58 Stat. 201; Apr. 24, 1945, ch. 92, title I, 59 Stat. 62; July 20, 1946, ch. 588, title I, 60 Stat. 574.

§ 724. Development of new uses for cotton

The Secretary of Agriculture is authorized to develop new and extended uses for cotton, and for such purpose there is authorized to be made available to the Secretary not to exceed $500,000 out of the funds available to him under section 612 of this title.

(Apr. 21, 1934, ch. 157, § 24, 48 Stat. 607.)

CROSS REFERENCES

Agricultural research generally, see section 427 of this title.

Research to discover new uses and markets for agricultural commodities, see section 1292 of this title.

§ 725. Repealed. Feb. 10, 1936, ch. 42, 49 Stat. 1106

Section, act Apr. 21, 1934, ch. 157, § 25, as added June 20, 1934, ch. 687, 48 Stat. 1184, related to issuance of tax exemption certificates.

COLLECTION OF UNPAID TAXES

Act Mar. 2, 1936, ch. 112, 49 Stat. 1155, amending act Feb. 10, 1936, ch. 42, 49 Stat. 1106, which repealed this section provided that no tax, civil penalty, or interest which accrued under any provision of law repealed by said act Feb. 10, 1936, and which was uncollected on the date of the enactment of said act Feb. 10, 1936, was to be collected; and all liens for taxes, civil penalties, or interest arising out of taxes under such provisions of law were cancelled and released.

§ 726. Omitted

CODIFICATION

Section, act June 6, 1934, ch. 409, 48 Stat. 911, related to the administration of oaths for tax exemption certificates, and was rendered inoperative by repeal of sections 721 to 723 and 725 of this title by act Feb. 10, 1936, ch. 42, 49 Stat. 1106.

CHAPTER 28—TOBACCO INDUSTRY

§§ 751 to 766. Repealed. Feb. 10, 1936, ch. 42, 49 Stat. 1106

Sections were derived from act June 28, 1934, ch. 866, §§ 1 to 16, 48 Stat. 1275 to 1280, as amended by act Aug. 24, 1935, ch. 641, §§ 44 to 54, 49 Stat. 778 to 780.

COLLECTION OF UNPAID TAXES

Act Mar. 2, 1936, ch. 112, 49 Stat. 1155, amending act Feb. 10, 1936, ch. 42, 49 Stat. 1106, provided that no tax, civil penalty, or interest which accrued under any provision of law repealed by said act Feb. 10, 1936, and which was uncollected on the date of the enactment of said act Feb. 10, 1936, was to be collected; and all liens for taxes, civil penalties, or interest arising out of taxes under such provisions of law were canceled and released.

APPROPRIATIONS FOR REFUNDS AND PAYMENTS OF PROCESSING AND RELATED TAXES AND LIMITATIONS THEREON

Acts June 25, 1938, ch. 681, 52 Stat. 1150; May 6, 1939, ch. 115, § 1, 53 Stat. 661, 662; Feb. 12, 1940, ch. 28, § 1, 54 Stat. 36; Mar. 25, 1940, ch. 71, title I, 54 Stat. 61; May 31, 1941, ch. 156, title I, § 1, 55 Stat. 219; Mar. 10, 1942, ch. 178, title I, § 1, 56 Stat. 156; June 30, 1943, ch. 179, title I, 57 Stat. 257; Apr. 22, 1944, ch. 175, title I, § 1, 58 Stat. 201; Apr. 24, 1945, ch. 92, title I, 59 Stat. 62; July 20, 1946, ch. 588, title I, 60 Stat. 574.

CHAPTER 29—POTATO ACT OF 1935

§§ 801 to 833. Repealed. Feb. 10, 1936, ch. 42, 49 Stat. 1106

Sections, act Aug. 24, 1935, ch. 641, §§ 201 to 233, 49 Stat. 782 to 793, related to potato control.

COLLECTION OF UNPAID TAXES

Act Mar. 2, 1936, ch. 112, 49 Stat. 1155, amending act Feb. 10, 1936, ch. 42, 49 Stat. 1106, provided that no tax, civil penalty, or interest which accrued under any provision of law repealed by said act Feb. 10, 1936, and which was uncollected on the date of the enactment of said act Feb. 10, 1936, was to be collected; and all liens for taxes, civil penalties, or interest arising out of taxes under such provisions of law were canceled and released.

APPROPRIATIONS FOR REFUNDS AND PAYMENTS OF PROCESSING AND RELATED TAXES AND LIMITATIONS THEREON

Acts June 25, 1938, ch. 681, 52 Stat. 1150; May 6, 1939, ch. 115, § 1, 53 Stat. 661, 662; Feb. 12, 1940, ch. 28, § 1, 54 Stat. 36; Mar. 25, 1940, ch. 71, title I, 54 Stat. 61; May 31, 1941, ch. 156, title I, § 1, 55 Stat. 218; Mar. 10, 1942, ch. 178, title I, § 1, 56 Stat. 156; June 30, 1943, ch. 179, title I, 57 Stat. 257; Apr. 22, 1944, ch. 175, title I, § 1, 58 Stat. 201; Apr. 24, 1945, ch. 92, title I, 59 Stat. 62; July 20, 1946, ch. 588, title I, 60 Stat. 574.

CHAPTER 30—ANTI-HOG-CHOLERA SERUM AND HOG-CHOLERA VIRUS

Sec.
851. Declaration of policy.
852. Marketing agreements with handlers; exemption from antitrust laws.
853. Terms and conditions of marketing agreements.
854. Order regulating handlers; issuance and terms.
855. Applicability of other laws.

§ 851. Declaration of policy

It is declared to be the policy of Congress to insure the maintenance of an adequate supply of anti-hog-cholera serum and hog-cholera virus by regulating the marketing of such serum and virus in interstate and foreign commerce, and to prevent undue and excessive fluctuations and unfair methods of competition and unfair trade practices in such marketing.

(Aug. 24, 1935, ch. 641, § 56. 49 Stat. 781.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 852, 853, 855 of this title.

§ 852. Marketing agreements with handlers; exemption from antitrust laws

In order to effectuate the policy declared in section 851 of this title the Secretary of Agriculture shall have the power, after due notice and opportunity for hearing, to enter into marketing agreements with manufacturers and others engaged in the handling of anti-hog-cholera serum and hog-cholera virus only with respect to such handling as is in the current of interstate or foreign commerce or which directly burdens, obstructs, or affects interstate or foreign commerce in such serum and virus. Such persons are in section 854 of this title referred to as "handlers." The making of any such agreement shall not be held to be in violation of any of the antitrust laws of the United States, and any such agreement shall be deemed to be lawful.

(Aug. 24, 1935, ch. 641, § 57, 49 Stat. 781.)

REFERENCES IN TEXT

Antitrust laws of the United States, referred to in the text, are classified to chapter 1 (§ 1 et seq.) of Title 15, Commerce and Trade.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 853, 854, 855 of this title.

§ 853. Terms and conditions of marketing agreements

Marketing agreements entered into pursuant to section 852 of this title shall contain such one or more of the following terms and conditions and no others as the Secretary finds, upon the basis of the hearing provided for in section 852 of this title, will tend to effectuate the policy declared in section 851 of this title:

(a) One or more of the terms and conditions specified in subsection (7) of section 608c of this title.

(b) Terms and conditions requiring each manufacturer to have in inventory in his own possession on April 1 of each year a reserve supply of completed serum equivalent to not less than 40 per centum of his previous year's sales of all serum, except that any marketing agreement may provide that upon written application by a manufacturer filed before September 1 of the preceding year, the Secretary may fix another date between January 1 and May 1 on which such manufacturer shall have such inventory if the Secretary finds that such actions will tend to effectuate the purposes of section 851 of this title. The Secretary may impose such terms and conditions upon granting any such application as he finds necessary to effectuate the purposes of section 851 of this title. Serum used in computing the required reserve supply of any manufacturer shall not again be used in computing the required reserve supply of any other manufacturer.

(Aug. 24, 1935, ch. 641, § 58, 49 Stat. 781; July 31, 1958, Pub. L. 85-574, 72 Stat. 454.)

REFERENCES IN TEXT

In the original "section 851 of this title", referred to in clause (b), reads "this Act", meaning act Aug. 24, 1935. For distribution of act Aug. 24, 1935, in the Code, see Tables volume.

AMENDMENTS

1958—Clause (b). Pub. L. 85-574 substituted the words "in inventory in his own possession on April 1" for "available on May 1", inserted the exception provision for changing the minimum inventory date under certain terms and conditions, and added the prohibition against reusing serum in computation of required reserve supply for different manufacturers.

§ 854. Order regulating handlers; issuance and terms

Whenever all the handlers of not less than 75 per centum of the volume of anti-hog-cholera serum and hog-cholera virus which is handled in the current of interstate or foreign commerce, or so as directly to burden, obstruct, or affect interstate or foreign commerce, have signed a marketing agreement entered into with the Secretary of Agriculture pursuant to section 852 of this title, the Secretary of Agriculture shall issue an order which shall regulate only such handling in the same manner as, and contain only such terms and conditions as are contained in such marketing agreement, and shall from time to time amend such order in conformance with amendments to such marketing agreement. Such order shall terminate upon termination of such marketing agreement as provided in such marketing agreement.

(Aug. 24, 1935, ch. 641, § 59, 49 Stat. 781.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 852, 855 of this title.

§ 855. Applicability of other laws

Subject to the policy declared in section 851 of this title, the provisions of subsections (6) to (9) of section 608a and of subsections (14) and (15) of section 608c of this title, are made applicable in connection with orders issued pursuant to section 854 of this title, and the provisions of section 608d of this title are made applicable in connection with marketing agreements entered into pursuant to section 852 of this title and orders issued pursuant to section 854 of this title. The provisions of subsections (a), (b)(2), (c), (f), (h), and (i) of section 610 of this title,

are made applicable in connection with the administration of this chapter.

(Aug. 24, 1935, ch. 641, § 60, 49 Stat. 782.)

FEDERAL RULES OF CIVIL PROCEDURE

Process, see rule 4, Title 28, Appendix, Judiciary and Judicial Procedure.

CHAPTER 31—RURAL ELECTRIFICATION AND TELEPHONE SERVICE

SUBCHAPTER I—RURAL ELECTRIFICATION

Sec.
901. Rural Electrification Administration; Administrator; short title.
902. Loans by Administrator; investigations and reports.
903. Funds of Administrator.
(a) Loans by Secretary of the Treasury.
(b) Authorization of appropriations.
(c) Allotment of funds for loans in States.
(d) Loans of unallotted funds.
(e) Unexpended funds; limitation on use.
904. Loans by Administrator for electrical plants and transmission lines; preferences; consent of State authorities.
905. Loans for electrical and plumbing equipment; persons eligible for loans.
906. Authorization of appropriations; testimony by Secretary of Agriculture before Congressional committees in justification of budget requests.
906a. Use of funds outside the United States or its territories prohibited.
907. Acquisition of property pledged for loans; disposition; sale of pledged property by borrower.
908. Transfer of functions of Administration created by Executive Order.
909. Administration on nonpolitical basis; dismissal of officers or employees for violating provision.
910. Annual report.
911. Acceptance of services of Federal or State officers; application of civil service laws; expenditures for supplies and equipment.
912. Extension of time for repayment of loans.
912a. Rescheduling and refinancing of loans.
913. Definitions.
914. Separability of provisions.
915. Purchase of financial and credit reports.

SUBCHAPTER II—RURAL TELEPHONE SERVICE

921. Congressional declaration of policy.
921a. Policy of financing of rural telephone program.
921b. Policy of expansion of markets for debentures.
922. Loans for rural telephone service.
923. State regulation of telephone service.
924. Definition of telephone service and rural area.

SUBCHAPTER III—RURAL ELECTRIC AND TELEPHONE DIRECT LOAN PROGRAMS

930. Congressional declaration of policy.
931. Rural Electrification and Telephone Revolving Fund.
932. Liabilities and uses of Rural Electrification and Telephone Revolving Fund.
933. Moneys in the Rural Electrification and Telephone Revolving Fund.
934. Authorized financial transactions; interim notes; purchase of obligations for resale; sale of notes and certificates; liens.
935. Insured loans.
(a) Authorization.
(b) Interest; standard rate; special rate.
(c) Sale and insurance of loans by Administrator.
936. Guaranteed loans; accommodation and subordination of liens; assignability of guaranteed loans and related guarantees.
937. Loans from other credit sources.
938. Full faith and credit of the United States.
939. Loan terms and conditions.
940. Refinancing of rural development loans.

SUBCHAPTER IV—RURAL TELEPHONE BANK

941. Telephone Bank.
(a) Establishment.
(b) General purposes.
(c) Status; payments in lieu of property taxes.
942. General powers.
943. Special provisions governing telephone bank as a Federal Agency until conversion of ownership, control, and operation.
(a) Supervision and direction of Secretary of Agriculture; free postage and priority of debts and restrictions.
(b) Use of facilities and services of employees of any agency of Department of Agriculture.
(c) Wholly owned Government corporation.
(d) Appointment and compensation of personnel.
(e) Tort claims and litigation.
944. Governor of telephone bank; functions, powers, and duties.
945. Telephone Bank Board.
(a) Management of telephone bank; membership.
(b) Federal agency and general public representation; additional compensation restriction.
(c) Selection of other Board members; initial appointment of eligible borrowers; service of appointees until election of successors.
(d) Interim election by eligible borrowers of representatives from cooperative-type and commercial-type entities; notice of election; voting: majority, proxies; term.
(e) Election of representatives of cooperative-type and commercial-type entities and organizations; voting; majority; proxy voting; cumulative voting prohibited.
(f) Service of member after expiration of term; compensation; travel and other expenses.
(g) Bylaws.
(h) Meetings: regular and special.
(i) Annual report; transmittal to Congress.
946. Capitalization.
(a) Federal and borrower subscriptions; Federal limitation; report to President, transmittal to Congress; net collection proceeds.
(b) Stock classification; voting stock; one vote rule.
(c) Class A stock; issuance to Administrator and redemption; cumulative return.
(d) Class B stock; borrowers as holders; dividend prohibition; patronage refunds.
(e) Class C stock; borrowers as purchasers; dividends.
(f) Special fund equivalents.
(g) Patronage refunds from remaining earnings after provision for operating expenses, reserves for losses, payments in lieu of taxes, and returns on class A and B stock.
947. Borrowing power; telephone debentures; issuance; interest rates; terms and conditions; ratio to paid-in capital and retained earnings; investments in debentures; debentures as security; purchase and sale of debentures by the Secretary of the Treasury; treatment as public debt transactions of the United States; exclusion of transactions from budget totals.

Sec.
948. Lending power.
(a) Loans for prescribed purposes; requisite conditions.
(b) Terms and conditions of loans; restrictions on loans.
(c) Payment schedule; adjustment; loan period.
949. Telephone bank receipts; availability for obligations and expenditures.
950. Conversion of ownership, control, and operation of telephone bank.
(a) Transfer of powers and authority from Administrator to Telephone Bank Board; cessation of Presidential appointees as Board members and reduction in number of Board members; status of telephone bank.
(b) Restrictions of section 948(a)(2) of this title inapplicable to loans upon redemption and retirement of class A stock.
(c) Congressional review.
950a. Liquidation or dissolution of telephone bank.
950b. Borrower net worth.

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in title 16 section 590z-7.

SUBCHAPTER I—RURAL ELECTRIFICATION

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 931, 939 of this title.

§ 901. Rural Electrification Administration; Administrator; short title

There is created and established in the Department of Agriculture an agency of the United States to be known as the "Rural Electrification Administration", all of the powers of which shall be exercised by an Administrator, under the general direction and supervision of the Secretary of Agriculture, who shall be appointed by the President, by and with the advice and consent of the Senate, for a term of ten years. This chapter may be cited as the "Rural Electrification Act of 1936."

(May 20, 1936, ch. 432, title I, § 1, 49 Stat. 1363; 1939 Reorg. Plan No. II, § 5, eff. July 1, 1939, 4 F.R. 2732, 53 Stat. 1434; Oct. 28, 1949, ch. 776, § 2, 63 Stat. 948.)

CODIFICATION

Provisions of this section which prescribed the basic annual compensation of the Administrator were omitted to conform to the provisions of the Federal Executive Salary Schedule. See section 5311 et seq. of Title 5, Government Organization and Employees.

AMENDMENTS

1949—Act Oct. 28, 1949, inserted "title I" in credit of act May 20, 1936.

SHORT TITLE

Pub. L. 94-570, § 1, Oct. 20, 1976, 90 Stat. 2701, provided: "That this Act [amending sections 931(a)(4) and 935(b) of this title and enacting provisions set out as a note under section 935 of this title] may be cited as the 'Rural Electrification Administration Technical Amendments Act of 1976'."

REPEALS

Act Oct. 15, 1949, ch. 695, § 5(a), 63 Stat. 880, formerly cited to the text, was repealed by Pub. L. 89-554, § 8(a), Sept. 6, 1966, 80 Stat. 655.

TRANSFER OF FUNCTIONS

All functions of all officers, agencies and employees of the Department of Agriculture were transferred, with certain exceptions, to the Secretary of Agriculture by 1953 Reorg. Plan No. 2, § 1, eff. June 4, 1953, 18 F.R. 3219, 67 Stat. 633, set out as a note under section 2201 of this title.

Rural Electrification Administration and its functions and activities were transferred to Department of Agriculture, to be administered therein by Administrator under general direction and supervision of Secretary of Agriculture, by 1939 Reorg. Plan No. II, set out in the Appendix to Title 5, Government Organization and Employees. See also sections 401 to 404 of that plan for provisions relating to transfer of functions, records, property, personnel, and funds.

§ 902. Loans by Administrator; investigations and reports

The Administrator is authorized and empowered to make loans in the several States and Territories of the United States for rural electrification and the furnishing of electric energy to persons in rural areas who are not receiving central station service and for the purpose of furnishing and improving telephone service in rural areas, as hereinafter provided; to make, or cause to be made, studies, investigations, and reports concerning the condition and progress of the electrification of and the furnishing of adequate telephone service in rural areas in the several States and Territories; and to publish and disseminate information with respect thereto.

(May 20, 1936, ch. 432, title I, § 2, 49 Stat. 1363; Oct. 28, 1949, ch. 776, §§ 2, 3, 63 Stat. 948.)

AMENDMENTS

1949—Act Oct. 28, 1949, authorized loans to furnish and improve rural telephone service; and inserted "title I" in credit of act May 20, 1936.

TRANSFER OF FUNCTIONS

All functions of all officers, agencies, and employees of the Department of Agriculture were transferred, with certain exceptions, to the Secretary of Agriculture by 1953 Reorg. Plan No. 2, § 1, eff. June 4, 1953, 18 F.R. 3219, 67 Stat. 633, set out as a note under section 2201 of this title.

§ 903. Funds of Administrator

(a) Loans by Secretary of the Treasury

The Secretary of the Treasury is authorized and directed to make loans to the Administrator, upon the request and approval of the Secretary of Agriculture, in such amounts in the aggregate for each fiscal year commencing with the fiscal year ending June 30, 1948, as the Congress may from time to time determine to be necessary, either without interest or at such rate of interest per annum, not in excess of the rate provided for in sections 904 and 905 of this title, as the Secretary of the Treasury may determine, upon the security of the obligations of borrowers from the Administrator appointed pursuant to the provisions of this chapter or from the Administrator of the Rural Electrification Administration established by Executive Order Numbered 7037. Interest rates on the

unpaid balance of any loans made by the Reconstruction Finance Corporation to the Administrator prior to July 1, 1947, shall be adjusted to the interest rate, if any, established for loans made after June 30, 1947, in accordance with the foregoing provision: *Provided*, That such obligations incurred for the purpose of financing the construction and operation of generating plants, electric transmission and distribution lines, or systems, and for the purpose of financing the improvement, expansion, construction, acquisition, and operation of facilities to render telephone service shall be fully amortized over a period not to exceed thirty-five years, and that the maturity of such obligations incurred for the purpose of financing the wiring of premises and the acquisition and installation of electrical and plumbing appliances and equipment shall not exceed two-thirds of the assured life thereof and not more than five years. The Administrator is authorized to make all such endorsements, to execute all such instruments, and to do all such acts and things as shall be necessary to effect the valid transfer and assignment to the Secretary of the Treasury of all such obligations, and to execute such trust instruments as shall be agreed upon by the Administrator and the Secretary of the Treasury providing for the holding in trust by the Administrator of all such obligations for the Secretary of the Treasury as security for loans to the Administrator heretofore made by the Reconstruction Finance Corporation or made or to be made by the Secretary of the Treasury. All rights, interest, obligations, and duties of the Reconstruction Finance Corporation arising out of loans made or authorized to be made to the Administrator are, as of the close of June 30, 1947, vested in the Secretary of the Treasury; the Reconstruction Finance Corporation is authorized and directed to transfer, as of the close of June 30, 1947, to the Secretary of the Treasury and the Secretary of the Treasury is authorized and directed to receive all loans outstanding on that date, plus accrued unpaid interest, theretofore made to the Administrator under the provisions of this chapter, and all notes and other evidences thereof and all obligations constituting the security therefor. The Secretary of the Treasury shall cancel notes of the Reconstruction Finance Corporation, and sums due and unpaid upon or in connection with such notes at the time of such cancellation, in an amount equal to the unpaid principal of the loans so transferred, plus accrued unpaid interest through June 30, 1947. Subsequent to June 30, 1947, the Reconstruction Finance Corporation shall make no further loans or advances to the Administrator; and the Secretary of the Treasury is authorized and directed, in lieu of the Reconstruction Finance Corporation, to lend or advance to the Administrator, in accordance with the provisions of this subsection, any unobligated or unadvanced balances of the sums which the Reconstruction Finance Corporation has theretofore been authorized and directed to lend to the Administrator. For the purpose of making loans or advances pursuant to this section, the Secretary of the Treasury is authorized to use as a public-debt transaction the proceeds from the sale of any securities issued under the Second Liberty Bond Act, as amended, and the purposes for which securites may be issued under said Act are extended to include such loans or advances to the Administrator. Repayments to the Secretary of the Treasury on such loans or advances shall be treated as a public-debt transaction of the United States.

(b) Authorization of appropriations

There are authorized to be appropriated such sums as the Congress may from time to time determine to be necessary for the purposes of this chapter as hereinafter provided.

(c) Allotment of funds for loans in States

Twenty-five per centum of the annual sums herein made available or appropriated for loans for rural electrification pursuant to sections 904 and 905 of this title shall be allotted yearly by the Administrator for loans in the several States in the proportion which the number of their farms not then receiving central station electric service bears to the total number of farms of the United States not then receiving such service: *Provided*, That if any part of such sums are not loaned or obligated during the first six months of the fiscal year for which they are made available, such part shall thereafter be available for loans by the Administrator without allotment: *Provided, however*, That not more than 25 per centum of said sums may be employed in any one State or in all of the Territories. The Administrator shall within ninety days after the beginning of each fiscal year determine for each State and for the United States the number of farms not then receiving such service.

(d) Loans of unallotted funds

The remaining 75 per centum of such annual sums shall be available for rural electrification loans in the several States and in the Territories, without allotment as hereinabove provided in such amounts for each State and Territory as, in the opinion of the Administrator, may be effectively employed for the purposes of this chapter, and to carryout the provisions of section 907 of this title: *Provided, however*, That not more than 25 per centum of said unallotted annual sums may be employed in any one State, or in all of the Territories.

(e) Unexpended funds; limitation on use

If any part of the annual sums made available for the purposes of this chapter are not loaned or obligated during the fiscal year for which they are made available, such unexpended or unobligated sums shall be available for loans by the Administrator in the following year or years without allotment: *Provided, however*, That not more than 25 per centum of said sums for rural electrification loans may be employed in any one State or in all of the territories.

(May 20, 1936, ch. 432, title I, § 3, 49. Stat. 1364. June 21, 1938, ch. 554, title IV, § 401, 52 Stat. 818; Sept. 21, 1944, ch. 412, title V, §§ 501, 503, 504, 58 Stat. 739, 740; July 30, 1947, ch. 356, title I, § 1, 61 Stat. 546; Oct. 28, 1949, ch. 776, §§ 2, 4(a)–(d), 63 Stat. 948; June 15, 1955, ch. 139, § 1, 69 Stat. 131; May 7, 1971, Pub. L. 92-12, § 3(a), 85 Stat. 37; May 11, 1973, Pub. L. 93-32, § 3, 87 Stat. 70.)

REFERENCES IN TEXT

The Second Liberty Bond Act, referred to in subsec. (a), is act Sept. 24, 1917, ch. 56, 40 Stat. 288, as amended. For classification of this Act to the Code, see References in Text note set out under section 774 of Title 31, Money and Finance, and Tables volume.

Said Act, referred to in subsection (a), refers to the Second Liberty Bond Act, as amended.

AMENDMENTS

1973—Subsec. (f). Pub. L. 93-32 struck out subsec. (f) which made provision for the disposition of payments on loans that had been made by the Administrator.

1971—Subsec. (f). Pub. L. 92-12 inserted introductory text "Except as otherwise provided in sections 931 and 946(a) of this title".

1955—Subsec. (c). Act June 15, 1955, reduced the funds which may be allotted for loans from fifty to twenty-five per centum of the available or appropriated sum, and added the two proviso clauses.

Subsec. (d). Act June 15, 1955, substituted "75 per centum" for "50 per centum", and "25 per centum" for "10 per centum".

Subsec. (e). Act June 15, 1955, substituted "25 per centum" for "10 per centum".

1949—Act Oct. 28, 1949, § 2, inserted "title I" in credit of act May 20, 1936.

Subsec. (a). Act Oct. 28, 1949, § 4(a), authorized loans for financing facilities to render telephone service.

Subsec. (c). Act Oct. 28, 1949, § 4(b), deleted "for the purposes of this chapter" and inserted in lieu thereof "for loans for rural electrification pursuant to sections 904 and 905 of this title".

Subsec. (d). Act Oct. 28, 1949, § 4(c), inserted "rural electrification" after "available for".

Subsec. (e). Act Oct. 28, 1949, § 4(d), inserted "for rural electrification loans" after "sums" in the proviso.

1947—Subsec. (a). Act July 30, 1947, amended subsec. (a) generally, and among other things transferred from the Reconstruction Finance Corporation to the Secretary of the Treasury the power to make loans.

Subsec. (f). Act July 30, 1947, substituted Secretary of the Treasury for Reconstruction Finance Corporation.

1944—Subsec. (a). Act Sept. 21, 1944, deleted words "The Reconstruction Finance Corporation is hereby authorized and directed to make loans to the Administrator, upon his request approved by the President, not exceeding in aggregate amounts $50,000,000 for the fiscal year ending June 30, 1937, and $100,000,000 for the fiscal year ending June 30, 1939, with interest at 3 per centum per annum" and inserted in lieu thereof "The Reconstruction Finance Corporation is hereby authorized and directed to make loans to the Administrator, upon the request and approval of the Secretary of Agriculture, in such amounts in the aggregate for each fiscal year commencing with the fiscal year ending June 30, 1945, as the Congress may from time to time determine to be necessary, with interest at a rate of 1¾ per centum per annum", changed colon to period following "numbered 70037", inserted "Interest rates on the unpaid balance of any loans made by the Reconstruction Finance Corporation to the Administrator prior to the effective date of this amendment shall be adjusted to a rate of 1¾ per centum per annum", added sentence "The amount of the notes, bonds, debentures, and other such obligations which the Reconstruction Finance Corporation is authorized and empowered to issue and to have outstanding at any one time under existing law is hereby increased by an amount sufficient to carry out the provisions hereof", and substituted "thirty-five years" for "twenty-five years" in second proviso.

Subsec. (b). Act Sept. 21, 1944, deleted entire subsec. limiting amount of appropriation and renewal of appropriations to eight years after June 30, 1938, and inserted in lieu thereof new subsec. (b).

Subsec. (e). Act Sept. 21, 1944, deleted "and provided further, that no loans shall be made by the Reconstruction Finance Corporation to the Administrator after June 30, 1939", and changed colon to period following "territories".

1938—Subsecs. (a) and (e). Act June 21, 1938, inserted in subsec. (a) immediately following date "June 30, 1937" the phrase "and $100,000,000 for the fiscal year ending June 30, 1939" and struck out date of "June 30, 1937" appearing at end of subsec. (e) and inserted in lieu thereof "June 30, 1939".

EFFECTIVE DATE OF 1973 AMENDMENT

Amendment by Pub. L. 93-32 effective May 11, 1973, see section 12 of Pub. L. 93-32, set out as a note under section 930 of this title.

EFFECTIVE DATE OF 1971 AMENDMENT

Amendment by Pub. L. 92-12 effective May 7, 1971, see section 7 Pub. L. 92-12, set out as a note under section 921a of this title.

TRANSFER OF FUNCTIONS

The functions, property, and personnel of the Rural Electrification Administration established by Executive Order Numbered 7037 of May 11, 1935, were transferred by Executive Order 7458 of Sept. 26, 1936, to the Rural Electrification Administration established by the Rural Electrification Act of 1936 (49 Stat. 1363), which was transferred to the Department of Agriculture by 1939 Reorg. Plan No. II, § 5, eff. July 1, 1939, 4 F.R. 2732, 53 Stat. 1434, set out in the Appendix to Title 5, Government Organization and Employees.

All functions of all officers, agencies and employees of the Department of Agriculture were transferred, with certain exceptions, to the Secretary of Agriculture by 1953 Reorg. Plan No. 2, § 1, eff. June 4, 1953, 18 F.R. 3219, 67 Stat. 633, set out as a note under section 2201 of this title.

RESTRICTIONS ON BORROWER

Act June 21, 1938, in addition to amending subsecs. (a) and (e), provided in part as follows: "In making loans pursuant to this title [title IV of such act] and pursuant to the Rural Electrification Act of 1936 [this chapter], the Administrator of the Rural Electrification Administration shall require that, to the extent practicable and the cost of which is not unreasonable, the borrower agree to use in connection with the expenditure of such funds only such unmanufactured articles, materials, and supplies, as have been mined or produced in the United States, and only such manufactured articles, materials, and supplies as have been manufactured in the United States substantially all from articles, materials, or supplies mined, produced, or manufactured, as the case may be, in the United States."

ABOLITION OF RECONSTRUCTION FINANCE CORPORATION

Section 6(a) of 1957 Reorg. Plan No. 1, eff. June 30, 1957, 22 F.R. 4633, 71 Stat. 647, set out in the Appendix to Title 5, Government Organization and Employees, abolished the Reconstruction Finance Corporation.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 904, 907, 912, 922, 931, 932, 946 of this title.

§ 904. Loans by Administrator for electrical plants and transmission lines; preferences; consent of State authorities

The Administrator is authorized and empowered, from the sums hereinbefore authorized, to make loans for rural electrification to persons, corporations, States, Territories, and subdivisions and agencies thereof, municipalities, peoples' utility districts and cooperative, nonprofit, or limited-dividend associations, organized under the laws of any State or Territory

of the United States, for the purpose of financing the construction and operation of generating plants, electric transmission and distribution lines or systems for the furnishing of electric energy to persons in rural areas who are not receiving central station service, and loans, from funds available under the provisions of sections 903(d) and 903(e) of this title but without regard to the 25 per centum limitation therein contained, to cooperative associations and municipalities for the purpose of enabling said cooperative associations and municipalities to the extent that such indebtedness was incurred with respect to electric transmission and distribution lines or systems or portions thereof serving persons in rural areas, to discharge or refinance long-term debts owned by them to the Tennessee Valley Authority on account of loans made or credit extended under the terms of the Tennessee Valley Authority Act of 1933, as amended [16 U.S.C. 831 et seq.]: *Provided,* That the Administrator, in making such loans, shall give preference to States, Territories, and subdivisions and agencies thereof, municipalities, peoples' utility districts, and cooperative, nonprofit, or limited-dividend associations, the projects of which comply with the requirements of this chapter. Such loans shall be on such terms and conditions relating to the expenditure of the moneys loaned and the security therefor as the Administrator shall determine and may be made payable in whole or in part out of the income: *Provided, further,* That all such loans shall be self-liquidating within a period of not to exceed thirty-five years, and shall bear interest at the rate of 2 per centum per annum; interest rates on the unmatured and unpaid balance of any loans made pursuant to this section prior to September 21, 1944, shall be adjusted to 2 per centum per annum, and the maturity date of any such loans may be readjusted to occur at a date not beyond thirty-five years from the date of such loan: *And provided further,* That no loan for the construction, operation, or enlargement of any generating plant shall be made unless the consent of the State authority having jurisdiction in the premises is first obtained. Loans under this section and section 905 of this title shall not be made unless the Administrator finds and certifies that in his judgment the security therefor is reasonably adequate and such loan will be repaid within the time agreed.

(May 20, 1936, ch. 432, title I, § 4, 49 Stat. 1365; Sept. 21, 1944, ch. 412, title V, §§ 502(a), 503, 58 Stat. 739; Dec. 23, 1944, ch. 725, 58 Stat. 925; June 29, 1948, ch. 703, 62 Stat. 1070; Oct. 28, 1949, ch. 776, §§ 2, 4(e), 63 Stat. 948; June 15, 1955, ch. 139, § 2, 69 Stat. 132.)

REFERENCES IN TEXT

The Tennessee Valley Authority Act of 1933, as amended, referred to in the text, is act May 18, 1933, ch. 32, 48 Stat. 58, as amended, which is classified generally to chapter 12A (§ 831 et seq.) of Title 16, Conservation. For complete classification of this Act to the Code, see Tables volume.

AMENDMENTS

1955—Act June 15, 1955, substituted "25 per centum" for "10 per centum".

1949—Act Oct. 28, 1949, inserted "for rural electrification" after "to make loans" in first sentence, and inserted "title I" in the credit of act May 20, 1936.

1948—Act June 29, 1948, permitted certain municipalities to refinance with R.E.A. their indebtedness with T.V.A.

1944—Act Dec. 23, 1944, inserted provision authorizing loans to cooperative assocations to enable them to discharge or refinance debts owed to the Tennessee Valley Authority.

Act Sept. 21, 1944, extended limit of self-liquidating period from 25 to 35 years and changing the rate of interest.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 903, 905, 907, 912, 922, 931, 932 of this title.

§ 905. Loans for electrical and plumbing equipment; persons eligible for loans

The Administrator is authorized and empowered, from the sums hereinbefore authorized, to make loans for the purpose of financing the wiring of the premises of persons in rural areas and the acquisition and installation of electrical and plumbing appliances and equipment. Such loans may be made to any of the borrowers of funds loaned under the provisoins of section 904 of this title, or to any person, firm, or corporation supplying or installing the said wiring, appliances, or equipment. Such loans shall be for such terms, subject to such conditions, and so, secured as reasonably to assure repayment thereof, and shall be at a rate of interest of 2 per centum per annum; interest rates on the unmatured and unpaid balance of any loans made pursuant to this section prior to September 21, 1944, shall be adjusted to 2 per centum per annum.

(May 20, 1936, ch. 432, title I, § 5, 49 Stat. 1365; Sept. 21, 1944, ch. 412, title V, § 502(b), 58 Stat. 739; Oct. 28, 1949, ch. 776, § 2, 63 Stat. 948.)

AMENDMENTS

1949—Act Oct. 28, 1949, inserted "title I" in credit of act May 20, 1936.

1944—Act Sept. 21, 1944, substituted a rate of interest of two per centum per annum for a former rate equal to the average rate of interest payable by the United States on certain of its obligations.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 903, 904, 912, 931, 932 of this title.

§ 906. Authorization of appropriations; testimony by Secretary of Agriculture before Congressional committees in justification of budget requests

For the purpose of administering this chapter and for the purpose of making the studies, investigations, publications, and reports herein provided for, there is authorized to be appropriated, out of any money in the Treasury not otherwise appropriated, such sums as shall be necessary. On or before February 15, of each calendar year beginning with calendar year 1976, or such other date as may be specified by the appropriate committee, the Secretary of Agriculture shall testify before the House Committee on Agriculture and the Senate Committee on Agriculture, Nutrition, and Forestry and provide justification in detail of the amount requested in the budget to be appropriated for the next fiscal year for the purpose of adminis-

tering this chapter and for the purpose of making the studies, investigations, publications, and reports herein authorized.

(May 20, 1936, ch. 432, title I, § 6, 49 Stat. 1365; Oct. 28, 1949, ch. 776, § 2, 63 Stat. 948; Nov. 4, 1975, Pub. L. 94-124, § 3, 89 Stat. 677; S. Res. 4, Feb. 4, 1977.)

AMENDMENTS

1975—Pub. L. 94-124 added requirement that the Secretary of Agriculture testify before the House Committee on Agriculture and the Senate Committee on Agriculture and Forestry each calendar year on or before February 15th or other date specified by the Committees to provide justification in detail of the amount requested in the budget to be appropriated for the next fiscal year.

1949—Act Oct. 28, 1949, inserted "title I" in credit of act May 20, 1936.

CHANGE OF NAME

The Committee on Agriculture and Forestry of the Senate was abolished and replaced by the Committee on Agriculture, Nutrition, and Forestry of the Senate, effective Feb. 11, 1977. See Rule XXV of the Standing Rules of the Senate, as amended by Senate Resolution 4 (popularly cited as the "Committee System Reorganization Amendments of 1977"), approved Feb. 4, 1977.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 911 of this title.

§ 906a. Use of funds outside the United States or its territories prohibited

No funds provided under this chapter shall be used outside the United States or any of its territories.

(Pub. L. 93-32, § 10, May 11, 1973, 87 Stat. 71.)

CODIFICATION

Section was not enacted as part of the Rural Electrification Act of 1936, as amended, act May 20, 1936, ch. 432, which comprises this chapter.

EFFECTIVE DATE

Section effective May 11, 1973, see section 12 of Pub. L. 93-32, set out as a note under section 930 of this title.

§ 907. Acquisition of property pledged for loans; disposition; sale of pledged property by borrower

The Administrator is authorized and empowered to bid for and purchase at any foreclosure or other sale, or otherwise to acquire, property pledged or mortgaged to secure any loan made pursuant to this chapter; to pay the purchase price and any costs and expenses incurred in connection therewith from the sums authorized in section 903 of this title; to accept title to any property so purchased or acquired in the name of the United States of America; to operate or lease such property for such period as may be deemed necessary or advisable to protect the investment therein, but not to exceed five years after the acquisition thereof; and to sell such property so purchased or acquired, upon such terms and for such consideration as the Administrator shall determine to be reasonable.

No borrower of funds under sections 904 or 922 of this title shall, without the approval of the Administrator, sell or dispose of its property, rights, or franchises, acquired under the provisions of this chapter, until any loan obtained from the Rural Electrification Administration, including all interest and charges, shall have been repaid.

(May 20, 1936, ch. 432, title I, § 7, 49 Stat. 1365; Oct. 28, 1949, ch. 776, §§ 2, 4(f), 63 Stat. 948.)

AMENDMENTS

1949—Act Oct. 28, 1949, inserted "or section 922" after "904" in second paragraph, and inserted "title I" in the credit of act May 20, 1936.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 903, 932 of this title.

§ 908. Transfer of functions of Administration created by Executive Order

The administration of loans and contracts entered into by the Rural Electrification Administration established by Executive Order Numbered 7037, dated May 11, 1935, may be vested by the President in the Administrator authorized to be appointed by this chapter; and in such event the provisions of this chapter shall apply to said loans and contracts to the extent that said provisions are not inconsistent therewith. The President may transfer to the Rural Electrification Administration created by this chapter the jurisdiction and control of the records, property (including office equipment), and personnel used or employed in the exercise and performance of the functions of the Rural Electrification Administration established by such Executive order.

(May 20, 1936, ch. 432, title I, § 8, 49 Stat. 1366; Oct. 28, 1949, ch. 776, § 2, 63 Stat. 948.)

AMENDMENTS

1949—Act Oct. 28, 1949, inserted "title I" in credit of act May 20, 1936.

TRANSFER OF FUNCTIONS

The functions, property, and personnel of the Rural Electrification Administration established by Executive Order Numbered 7037 of May 11, 1935, were transferred by Executive Order 7458 of Sept. 26, 1936, to the Rural Electrification Administration established by the Rural Electrification Act of 1936 (49 Stat. 1363), which was transferred to the Department of Agriculture by 1939 Reorg. Plan No. II, § 5, eff. July 1, 1939, 4 F.R. 2732, 53 Stat. 1434, set out in the Appendix to Title 5, Government Organization and Employees.

§ 909. Administration on nonpolitical basis; dismissal of officers or employees for violating provision

This chapter shall be administered entirely on a nonpartisan basis, and in the appointment of officials, the selection of employees, and in the promotion of any such officials or employees, no political test or qualification shall be permitted or given consideration, but all such appointments and promotions shall be given and made on the basis of merit and efficiency. If the Administrator herein provided for is found by the President of the United States to be guilty of a violation of this section, he shall be removed from office by the President, and any appointee or selection of officials or employees made by the Administrator who is found guilty of a violation of this chapter shall be removed by the Administrator.

(May 20, 1936, ch. 432, title I, § 9, 49 Stat. 1366; Oct. 28, 1949, ch. 776, § 2, 63 Stat. 948.)

AMENDMENTS

1949—Act Oct. 28, 1949, inserted "title I" in credit of act May 20, 1936.

§ 910. Annual report

The Administrator shall present annually to the Congress not later than the 20th day of April in each year a full report of his activities under this chapter.

(May 20, 1936, ch. 432, title I, § 10, 49 Stat. 1366; Oct. 28, 1949, ch. 776, § 2, 63 Stat. 948; Apr. 21, 1976, Pub. L. 94-273, § 11(1), 90 Stat. 378.)

AMENDMENTS

1976—Pub. L. 94-273 substituted "April" for "January".

1949—Act Oct. 28, 1949, inserted "title I" in credit of act May 20, 1936.

§ 911. Acceptance of services of Federal or State officers; application of civil service laws; expenditures for supplies and equipment

In order to carry out the provisions of this chapter the Administrator may accept and utilize such voluntary and uncompensated services of Federal, State, and local officers and employees as are available, and he may appoint and fix the compensation of attorneys, engineers, and experts and he may, subject to the civil-service laws, appoint such other officers and employees as he may find necessary and prescribe their duties. The Administrator is authorized, from sums appropriated pursuant to section 906 of this title, to make such expenditures (including expenditures for personal services; supplies and equipment; lawbooks and books of reference; directories and periodicals; travel expenses; rental at the seat of government and elsewhere; the purchase, operation, or maintenance of passenger-carrying vehicles; and printing and binding) as are appropriate and necessary to carry out the provisions of this chapter.

(May 20, 1936, ch. 432, title I, § 11, 49 Stat. 1366; Oct. 28, 1949, ch. 776, § 2, 63 Stat. 948.)

REFERENCES IN TEXT

The civil service laws, referred to in text, are set forth in Title 5, Government Organization and Employees. See, particularly, section 3301 et seq. of that title.

CODIFICATION

Provisions which authorized the appointment and fixing of compensation of attorneys, engineers, and experts "without regard to the provisions of the civil service laws applicable to officers and employees of the United States" were omitted as obsolete and superseded.

Such appointments are now subject to the civil service laws unless specifically excepted by those laws or by laws enacted subsequent to Executive Order 8743, Apr. 23, 1941, issued by the President pursuant to act Nov. 26, 1940, ch. 919, title I, § 1, 54 Stat. 1211, which covered most excepted positions into the classified (competitive) civil service. The Order is set out as a note under section 3301 of Title 5, Government Organization and Employees.

As to the compensation of such personnel, sections 1202 and 1204 of the Classification Act of 1949, 63 Stat. 972, 973, repealed the Classification Act of 1923 and all other laws or parts of laws inconsistent with the 1949 Act. The Classification Act of 1949 was repealed by Pub. L. 89-554, Sept. 6, 1966, § 8(a), 80 Stat. 632, and reenacted as chapter 51 and subchapter III of chapter 53 of Title 5. Section 5102 of Title 5 now contains the applicability provisions of the 1949 Act, and section 5103 of Title 5 authorizes the Civil Service Commission to determine the applicability to specific positions and employees.

AMENDMENTS

1949—Act Oct. 28, 1949, inserted "title I" in credit of act May 20, 1936.

§ 912. Extension of time for repayment of loans

The Administrator is authorized and empowered to extend the time of payment of interest or principal of any loans made by the Administrator pursuant to this chapter: *Provided, however,* That with respect to any loan made under section 904 or 922 of this title, the payment of interest or principal shall not be extended more than five years after such payment shall have become due, and with respect to any loan made under section 905 of this title, the payment of principal or interest shall not be extended more than two years after such payment shall have become due: *And provided further,* That the provisions of this section shall not apply to any obligations or the security therefor which may be held by the Reconstruction Finance Corporation under the provisions of section 903 of this title.

(May 20, 1936, ch. 432, title I, § 12, 49 Stat. 1366; Oct. 28, 1949, ch. 776, §§ 2, 4(f), 63 Stat. 948.)

AMENDMENTS

1949—Act Oct. 28, 1949, inserted "or section 922" after "904" in first proviso, and inserted "title I" in credit of act May 20, 1936.

ABOLITION OF RECONSTRUCTION FINANCE CORPORATION

Section 6(a) of 1957 Reorg. Plan No. 1, eff. June 30, 1957, 22 F.R. 4633, 71 Stat. 647, set out in the Appendix to Title 5, Government Organization and Employees, abolished the Reconstruction Finance Corporation.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 912a of this title.

§ 912a. Rescheduling and refinancing of loans

In addition to the loan extension authority provided in section 912 of this title, the Secretary of Agriculture is authorized to adjust and readjust the schedules for payment of principal and interest on loans to borrowers under programs administered by the Rural Electrification Administration, and to extend the maturity date of any such loan to a date not beyond forty years from the date of such loan where he determines such action is necessary because of the impairment of the economic feasibility of the system, or the loss, destruction, or damage of the property of such borrowers as a result of a major disaster.

(Pub. L. 91-606, title II, § 236(a), Dec. 31, 1970, 84 Stat. 1754.)

CODIFICATION

Section was enacted as part of the Disaster Relief Act of 1970, and not as part of the Rural Electrification Act of 1936, which constitutes this chapter. Section was formerly classified to section 4455(a) of Title 42, The Public Health and Welfare.

EFFECTIVE DATE

Section effective Dec. 31, 1970, see section 304 of Pub. L. 91-606, set out as a note under former section 4401 of Title 42.

§ 913. Definitions

As used in this chapter the term "rural area" shall be deemed to mean any area of the United States not included within the boundaries of any city, village, or borough having a population in excess of fifteen hundred inhabitants, and such term shall be deemed to include both the farm and nonfarm population thereof; the term "farm" shall be deemed to mean a farm as defined in the publications of the Bureau of the Census; the term "person" shall be deemed to mean any natural person, firm, corporation, or association; the term "Territory" shall be deemed to include any insular possession of the United States.

(May 20, 1936, ch. 432, title I, § 13, 49 Stat. 1367; Oct. 28, 1949, ch. 776, § 2, 63 Stat. 948.)

AMENDMENTS

1949—Act Oct. 28, 1949, inserted "title I" in credit of act May 20, 1936.

§ 914. Separability of provisions

If any provision of this chapter, or the application thereof to any person or circumstances, is held invalid, the remainder of the chapter and the application of such provision to other persons or circumstances shall not be affected thereby.

(May 20, 1936, ch. 432, title I, § 14, 49 Stat. 1367; Oct. 28, 1949, ch. 776, § 2, 63 Stat. 948.)

AMENDMENTS

1949—Act Oct. 28, 1949, inserted "title I" in credit of act May 20, 1936.

§ 915. Purchase of financial and credit reports

The Rural Electrification Administration is authorized to purchase such financial and credit reports as may be necessary to carry out its authorized work: *Provided,* That purchases under this authority shall not be made unless provision is made therefor in the applicable appropriation and the cost thereof is not in excess of limitations prescribed therein.

(Sept. 21, 1944, ch. 412, title V, § 505, 58 Stat. 740.)

CODIFICATION

Section was enacted as a part of the Department of Agriculture Organic Act of 1944 and was not a part of the Rural Electrification Act of 1936, which constitutes this chapter.

SUBCHAPTER II—RURAL TELEPHONE SERVICE

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 931, 939 of this title.

§ 921. Congressional declaration of policy

It is declared to be the policy of the Congress that adequate telephone service be made generally available in rural areas through the improvement and expansion of existing telephone facilities and the construction and operation of such additional facilities as are required to assure the availability of adequate telephone service to the widest practicable number of rural users of such service.

(Oct. 28, 1949, ch. 776, § 1, 63 Stat. 948.)

CODIFICATION

Section is composed of the first sentence of section 1 of act Oct. 28, 1949. The second sentence of section 1 of that act, which provided that: "In order to effectuate this policy, the Rural Electrification Act of 1936 [this chapter] is amended as hereinafter provided", is omitted from the Code.

Section was not enacted as part of title II of the Rural Electrification Act of 1936, which comprises subchapter II of this chapter.

§ 921a. Policy of financing of rural telephone program

It is hereby declared to be the policy of the Congress that the growing capital needs of the rural telephone systems require the establishment of a rural telephone bank which will furnish assured and viable sources of supplementary financing with the objective that said bank will become an entirely privately owned, operated, and financed corporation. The Congress further finds that many rural telephone systems require financing under the terms and conditions provided in this subchapter.

(Pub. L. 92-12, § 1, May 7, 1971, 85 Stat. 29.)

CODIFICATION

The last sentence of section 1 of Pub. L. 92-12 provided that: "In order to effectuate this policy, the Rural Electrification Act of 1936, as amended (7 U.S.C. 921-924), is amended as hereinafter provided."

Section was not enacted as a part of title II of the Rural Electrification Act of 1936, which comprises this subchapter.

EFFECTIVE DATE

Section 7 of Pub. L. 92-12 provided that "This Act [which enacted this section and sections 931, 932, and 941 to 950b of this title and amended sections 903(f) and 922 of this title] shall take effect upon enactment [May 7, 1971]."

RESERVATION OF RIGHT TO REPEAL, ALTER, OR AMEND PUB. L. 92-12

Section 6 of Pub. L. 92-12 provided that "The right to repeal, alter, or amend this Act [which enacted this section and sections 931, 932, and 941 to 950b of this title, amended sections 903(f) and 922 of this title and sections 856 and 868(d) of Title 31, and enacted provisions set out as notes under sections 856 and 868 of Title 31] is expressly reserved."

§ 921b. Policy of expansion of markets for debentures

It is hereby declared to be the policy of the Congress that the Rural Telephone Bank should have the capability of obtaining adequate funds for its supplementary financing program at the lowest possible costs. In order to effectuate this policy, it will be necessary to expand the market for debentures to be issued by the Telephone Bank.

(Pub. L. 92-324, § 1, June 30, 1972, 86 Stat. 390.)

CODIFICATION

The last sentence of section 1 of Pub. L. 92-324 provided that: "The Rural Electrification Act of 1936, as

amended (7 U.S.C. 901-950(b)), is therefore further amended as hereinafter provided."

Section was not enacted as a part of the title II of the Rural Electrification Act of 1936, which comprises this subchapter.

EFFECTIVE DATE

Section 4 of Pub. L. 92-324 provided that: "This Act [which enacted this section and amended section 947 of this title] shall take effect upon enactment [June 30, 1972]."

RESERVATION OF RIGHT TO REPEAL, ALTER, OR AMEND PUB. L. 92-324

Section 3 of Pub. L. 92-324 provided that: "The right to repeal, alter, or amend this Act [which enacted this section and amended section 947 of this title] is expressly reserved."

§ 922. Loans for rural telephone service

From such sums as are from time to time made available by the Congress to the Administrator for such purpose, pursuant to section 903 of this title, the Administrator is authorized and empowered to make loans to persons now providing or who may hereafter provide telephone service in rural areas, to public bodies now providing telephone service in rural areas and to cooperative, nonprofit, limited dividend, or mutual associations. Except as otherwise provided by this subchapter, such loans shall be made under the same terms and conditions as are provided in section 904 of this title, for the purpose of financing the improvement, expansion, construction, acquisition, and operation of telephone lines, facilities, or systems to furnish and improve telephone service in rural areas: *Provided, however,* That the Administrator, in making such loans, shall give preference to persons providing telephone service in rural areas, to public bodies now providing telephone service in rural areas, and to cooperative, nonprofit, limited, dividend, or mutual associations: *And provided further,* That for a period of one year from and after October 28, 1949, applications for loans received by the Administrator from persons who on October 28, 1949, are engaged in the operation of existing telephone service in rural areas shall be considered and acted upon before action is taken upon any application received from any other person for any loan to finance the furnishing or improvement of telephone service to substantially the same subscribers. The Administrator in making such loans shall, insofar as possible, obtain assurance that the telephone service to be furnished or improved thereby will be made available to the widest practical number of rural users. When it is determined by the Administrator to be necessary in order to furnish or improve telephone service in rural areas, such loans may be made for the improvement, expansion, construction, acquisition, and operation of telephone lines, facilities, or systems without regard to their geographical location. The Administrator is further authorized and empowered to make loans for the purpose of refinancing outstanding indebtedness of persons furnishing telephone service in rural areas: *Provided,* That such refinancing shall be determined by the Administrator to be necessary in order to furnish and improve telephone service in rural areas: *And provided further,* That such refinancing shall constitute not more than 40 per centum of any loan made under this subchapter. Loans under this section shall not be made unless the Administrator finds and certifies that in his judgment the security therefor is reasonably adequate and such loan will be repaid within the time agreed, nor shall such loan be made in any State which now has or may hereafter have a State regulatory body having authority to regulate telephone service and to require certificates of convenience and necessity to the applicant unless such certificate from such agency is first obtained. In a State in which there is no such agency or regulatory body legally authorized to issue such certificates to the applicant, no loan shall be made under this section unless the Administrator shall determine (and set forth his reasons therefor in writing) that no duplication of lines, facilities, or systems, providing reasonably adequate services will result therefrom.

(May 20, 1936, ch. 432, title II, § 201, as added Oct. 28, 1949, ch. 776, § 5, 63 Stat. 948, and amended May 7, 1971, Pub. L. 92-12, § 3(b), 85 Stat. 37.)

AMENDMENTS

1971—Pub. L. 92-12 inserted ", to public bodies now providing telephone service in rural areas" following "areas" in first sentence and following "areas" in the first proviso of second sentence.

EFFECTIVE DATE OF 1971 AMENDMENT

Amendment by Pub. L. 92-12 effective May 7, 1971, see section 7 of Pub. L. 92-12, set out as a note under section 921a of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 907, 912, 931, 932, 946, 948, 950b of this title.

§ 923. State regulations of telephone service

Nothing contained in this chapter shall be construed to deprive any State commission, board, or other agency of jurisdiction, under any State law, now or hereafter effective, to regulate telephone service which is not subject to regulation by the Federal Communications Commission, under the Communications Act of 1934 [47 U.S.C. 151 et seq.], including the rates for such service.

(May 20, 1936, ch. 432, title II, § 202, as added Oct. 28, 1949, ch. 776, § 5, 63 Stat. 948.)

REFERENCES IN TEXT

The Communications Act of 1934, referred to in text, is act June 19, 1934, ch. 652, 48 State. 1064, as amended, which is classified generally to chapter 5 (§ 151 et seq.) of Title 47, Telegraphs, Telephones, and Radiotelegraphs. For complete classification of this Act to the Code, see section 609 of Title 47, and Tables volume.

§ 924. Definition of telephone service and rural area

(a) As used in this subchapter, the term "telephone service" shall be deemed to mean any communication service for the transmission of voice, sounds, signals, pictures, writing, or signs of all kinds through the use of electricity between the transmitting and receiving apparatus, and shall include all telephone lines, facilities, or systems used in the rendition of such service; but shall not be deemed to mean mes-

sage telegram service or community antenna television system services or facilities other than those intended exclusively for educational purposes, or radio broadcasting services or facilities within the meaning of section 153(o) of title 47.

(b) As used in this subchapter, the term "rural area" shall be deemed to mean any area of the United States not included within the boundaries of any incorporated or unincorporated city, village, or borough having a population in excess of one thousand five hundred inhabitants.

(May 20, 1936, ch. 432, title II, § 203, as added Oct. 28, 1949, ch. 776, § 5, 63 Stat. 948, and amended Oct. 23, 1962, Pub. L. 87-862, 76 Stat. 1140.)

AMENDMENTS

1962—Subsec. (a). Pub. L. 87-862 included the transmission of sounds, signals, pictures, writing, or signs of all kinds within "telephone service", and substituted "message telegram service or community antenna television system services or facilities other than those intended exclusively for educational purposes" for "telegraph services or facilities".

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 948 of this title.

SUBCHAPTER III—RURAL ELECTRIC AND TELEPHONE DIRECT LOAN PROGRAMS

§ 930. Congressional declaration of policy

It is hereby declared to be the policy of the Congress that adequate funds should be made available to rural electric and telephone systems through direct, insured and guaranteed loans at interest rates which will allow them to achieve the objectives of this chapter and that such rural electric and telephone systems should be encouraged and assisted to develop their resources and ability to achieve the financial strength needed to enable them to satisfy their credit needs from their own financial organizations and other sources at reasonable rates and terms consistent with the loan applicant's ability to pay and achievement of this chapter's objectives.

(Pub. L. 93-32, § 1, May 11, 1973, 87 Stat. 65.)

CODIFICATION

The last sentence of section 1 of Pub. L. 93-32 provided that: "The Rural Electrification Act of 1936, as amended (7 U.S.C. 901-950(b)), is therefore further amended as hereinafter provided."

Section was not enacted as a part of the Rural Electrification Act of 1936, act May 20, 1936, ch. 432, which comprises this chapter.

EFFECTIVE DATE

Section 12 of Pub. L. 93-32 provided that: "This Act [which enacted this section and sections 906a and 933 to 940 of this title, amended sections 903, 931, 932, 945, 946, 947, and 948 of this title, and enacted provisions set out as notes under this section] shall take effect upon enactment [May 11, 1973]."

RESERVATION OF RIGHT TO REPEAL, ALTER, OR AMEND PUB. L. 93-32

Section 11 of Pub. L. 93-32 provided that: "The right to repeal, alter, or amend, this Act [which enacted this section and sections 906a and 933 to 940 of this title, amended sections 903, 931, 932, 945, 946, 947, and 948 of this title, and enacted provisions set out as notes under this section] is expressly reserved."

§ 931. Rural Electrification and Telephone Revolving Fund

(a) [1] There is hereby established in the Treasury of the United States a fund, to be known as the Rural Electrification and Telephone Revolving Fund (hereinafter referred to as the "fund"), consisting of:

(1) all notes, bonds, obligations, liens, mortgages, and property delivered or assigned to the Administrator pursuant to loans heretofore or hereafter made under sections 904, 905, and 922 of this title and under this subchapter, as of May 11, 1973, and all proceeds from the sales hereunder of such notes, bonds, obligations, liens, mortgages, and property, which shall be transferred to and be assets of the funds;

(2) undisbursed balances of electric and telephone loans made under sections 904, 905, and 922 of this title, which as of May 11, 1973, shall be transferred to and be assets of the fund;

(3) notwithstanding section 903(a) of this title, all collections of principal and interest received on and after July 1, 1972, on notes, bonds, judgments, or other obligations made or held under subchapters I and II of this chapter and under this subchapter, except for net collection proceeds previously appropriated for the purchase of class A stock in the Rural Telephone Bank, which shall be paid into and be assets of the fund;

(4) all appropriations for interest subsidies and losses required under this subchapter which may hereafter be made by the Congress and the unobligated balances of any funds made available for loans under the item "Rural Electrification Administration" in the Department of Agriculture and Agriculture-Environmental and Consumer Protection Appropriations Acts;

(5) moneys borrowed from the Secretary of the Treasury pursuant to section 934(a) of this title;

(6) shares of the capital stock of the Rural Telephone Bank purchased by the United States pursuant to section 946(a) of this title and moneys received from said bank upon retirement of said shares of stock in accordance with the provisions of subchapter IV of this chapter, which said shares and moneys shall be assets of the fund.

(May 20, 1936, ch. 432, title III, § 301, as added May 7, 1971, Pub. L. 92-12, § 2, 85 Stat. 29, and amended May 11, 1973, Pub. L. 93-32, § 2, 87 Stat. 66; Oct. 20, 1976, Pub. L. 94-570, § 2, 90 Stat. 2701.)

AMENDMENTS

1976—Subsec. (a)(4). Pub. L. 94-570 provided for inclusion in the fund the unobligated balances of any funds made available for loans under the item "Rural Electrification Administration" in the Department of Agriculture and Agriculture-Environmental and Consumer Protection Appropriation Acts.

1973—Pub. L. 93-32 substituted provisions establishing the Rural Electrification and Telephone Revolving Fund and enumerating its constituent parts, for provisions establishing a rural telephone account in the United States Treasury.

[1] So in original. There is no subsec. (b).

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment of subsec. (a)(4) effective Oct. 20, 1976, see section 4 of Pub. L. 94-570, set out as a note under section 935 of this title.

EFFECTIVE DATE OF 1973 AMENDMENT

Amendment by Pub. L. 93-32 effective May 11, 1973, see section 12 of Pub. L. 93-32, set out as a note under section 930 of this title.

EFFECTIVE DATE

Section effective May 7, 1971, see section 7 of Pub. L. 92-12, set out as a note under section 921a of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 946 of this title.

§ 932. Liabilities and uses of Rural Electrification and Telephone Revolving Fund

(a) The notes of the Administrator to the Secretary of the Treasury to obtain funds for loans under sections 904, 905, and 922 of this title, and all other liabilities against the appropriations or assets in the fund in connection with electrification and telephone loan operations shall be liabilities of the fund, and all other obligations against such appropriations or assets in the fund arising out of electrification and telephone loan operations shall be obligations of the fund.

(b) The assets of the fund shall be available only for the following purposes:

(1) loans which could be insured under this subchapter, and for advances in connection with such loans and loans previously made, as of May 11, 1973, under sections 904, 905, and 922 of this title;

(2) payment of principal when due (without interest) on outstanding loans to the Administrator from the Secretary of the Treasury for electrification and telephone purposes pursuant to section 903(a) of this title and payment of principal and interest when due on loans to the Administrator from the Secretary of the Treasury pursuant to section 934(a) of this title;

(3) payment of amounts to which the holder of notes is entitled on insured loans: *Provided,* That payments other than final payments need not be remitted to the holder until due or until the next agreed annual, semiannual, or quarterly remittance date;

(4) payment to the holder of insured notes of any defaulted installment or, upon assignment of the note of the Administrator at his request, the entire balance due on the note;

(5) purchase of notes in accordance with contracts of insurance entered into by the Administrator;

(6) payment in compliance with contracts of guarantee;

(7) payment of taxes, insurance, prior liens, expenses necessary to make fiscal adjustments in connection with the application, and transmittal of collections or necessary to obtain credit reports on applicants or borrowers, expenses for necessary services, including construction, inspections, commercial appraisals, loan servicing, consulting business advisory or other commercial and technical services, and other program services, and other expenses and advances authorized in section 907 of this title in connection with insured loans. Such items may be paid in connection with guaranteed loans after or in connection with the acquisition of such loans or security thereof after default, to the extent determined to be necessary to protect the interest of the Government, or in connection with any other activity authorized in this chapter;

(8) payment of the purchase price and any costs and expenses incurred in connection with the purchase, acquisition, or operation of property pursuant to section 907 of this title.

(May 20, 1936, ch. 432, title III, § 302, as added May 7, 1971, Pub. L. 92-12, § 2, 85 Stat. 30, and amended May 11, 1973, Pub. L. 93-32, § 2, 87 Stat. 66.)

AMENDMENTS

1973—Pub. L. 93-32 substituted provisions setting out the liabilities of the Rural Electrification and Telephone Revolving Fund and the allowable purposes for which fund assets shall be available, for provisions, that the monies in the rural telephone account should remain on deposit in the Treasury of the United States until disbursed.

EFFECTIVE DATE OF 1973 AMENDMENT

Amendment by Pub. L. 93-32 effective May 11, 1973, see section 12 of Pub. L. 93-32, set out as a note under section 930 of this title.

EFFECTIVE DATE

Section effective May 7, 1971, see section 7 of Pub. L. 92-12, set out as a note under section 921a of this title.

§ 933. Moneys in the Rural Electrification and Telephone Revolving Fund

Moneys in the fund shall remain on deposit in the Treasury of the United States until disbursed.

(May 20, 1936, ch. 432, title III, § 303, as added May 11, 1973, Pub. L. 93-32, § 2, 87 Stat. 67.)

EFFECTIVE DATE

Section effective May 11, 1973, see section 12 of Pub. L. 93-32, set out as a note under section 930 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 939 of this title.

§ 934. Authorized financial transactions; interim notes; purchase of obligations for resale; sale of notes and certificates; liens

(a) The Administrator is authorized to make and issue interim notes to the Secretary of the Treasury for the purpose of obtaining funds necessary for discharging obligations of the fund and for making loans, advances and authorized expenditures out of the fund. Such notes shall be in such form and denominations and have such maturities and be subject to such terms and conditions as may be agreed upon by the Administrator and the Secretary of the Treasury. Such notes shall bear interest at a rate fixed by the Secretary of the Treasury, taking into consideration the current average market yield of outstanding marketable obligations of the United States having maturities comparable to the notes issued by the Administrator under this section. The Secretary of the Treasury is authorized and directed to purchase any notes of the Administrator

issued hereunder, and, for that purpose, the Secretary of the Treasury is authorized to use as a public debt transaction the proceeds from the sale of any securities issued under the Second Liberty Bond Act, as amended, and the purposes for which such securities may be issued under such Act, as amended, are extended to include the purchase of notes issued by the Administrator. All redemptions, purchases, and sales by the Secretary of the Treasury of such notes shall be treated as public debt transactions of the United States: *Provided, however,* That such interim notes to the Secretary of the Treasury shall not be included in the totals of the budget of the United States Government and shall be exempt from any general limitation imposed by statute on expenditures and net lending (budget outlays) of the United States.

(b) The Secretary of the Treasury is authorized and directed to purchase for resale obligations insured through the fund when offered by the Administrator. Such resales shall be upon such terms and conditions as the Secretary of the Treasury shall determine. Purchases and resales by the Secretary of the Treasury hereunder shall not be included in the totals of the budget of the United States Government and shall be exempt from any general limitation imposed by statute on expenditures and not lending (budget outlays) of the United States.

(c) The Administrator may, on an insured basis or otherwise, sell and assign any notes in the fund or sell certificates of beneficial ownership therein to the Secretary of the Treasury or in the private market. Any sale by the Administrator of notes individually or in blocks shall be treated as a sale of assets for the purposes of the Budget and Accounting Act, 1921 [31 U.S.C. 1 et seq.], notwithstanding the fact that the Administrator, under an agreement with the purchaser or purchasers, holds the debt instruments evidencing the loans and holds or reinvests payments thereon as trustee and custodian for the purchaser or purchasers of the individual note or of the certificate of beneficial ownership in a number of such notes. Security instruments taken by the Administrator in connection with any notes in the fund may constitute liens running to the United States notwithstanding the fact that such notes may be thereafter held by purchasers thereof.

(May 20, 1936, ch. 432, title III, § 304, as added May 11, 1973, Pub. L. 93-32, § 2, 87 Stat. 67.)

REFERENCES IN TEXT

The Second Liberty Bond Act, referred to in subsec. (a), is act Sept. 24, 1917, ch. 56, 40 Stat. 288, as amended. For classification of this Act to the Code, see References in Text note set out under section 774 of Title 31, Money and Finance, and Tables volume.

The Budget and Accounting Act, 1921, referred to in subsec. (c), is act June 10, 1921, ch. 18, 42 Stat. 20, as amended, which is classified generally classified to chapter 1 (§ 1 et seq.) of Title 31, Money and Finance. For complete classification of this Act to the Code, see section 1 of Title 31 and Tables volume.

EFFECTIVE DATE

Section effective May 11, 1973, see section 12 of Pub. L. 93-32, set out as a note under section 930 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 931, 932, 939 of this title.

§ 935. Insured loans

(a) Authorization

The Administrator is authorized to make insured loans under this subchapter and at the interest rates hereinafter provided to the full extent of the assets available in the fund, subject only to limitations as to amounts authorized for loans and advances as may be from time to time imposed by the Congress of the United States for loans to be made in any one year, which amounts shall remain available until expended: *Provided,* That the Congress in the annual appropriation Act may also authorize the transfer of any excess cash in the fund for deposit into the Treasury as miscellaneous receipts: *And provided further,* That any such loans and advances shall not be included in the totals of the budget of the United States Government and shall be exempt from any general limitation imposed by statute on expenditures and net lending (budget outlays) of the United States.

(b) Interest; standard rate; special rate

Insured loans made under this subchapter shall bear interest at either 2 per centum per annum (hereinafter called the "special rate"), or 5 per centum per annum (hereinafter called the "standard rate"). Loans bearing the special rate shall be available only for an electric or telephone borrower which:

(1) in the case of a telephone borrower, had at the end of the most recent calendar year ending at least six months before approval of the loan, an average subscriber density of three or fewer per mile; or

(2) in the case of an electric borrower, had at the end of the most recent calendar year ending at least six months before approval of the loan, an average consumer density of two or fewer per mile or an average adjusted plant revenue ratio of over 9.0, such ratio being a simple average of the ratios obtained by dividing the sum of its distribution plant and general plant by its annual gross revenue less cost of power for that calendar year and the two immediately preceding calendar years. As used in this subsection the sum of distribution plant and general plant shall be the total of the amounts shown in accounts numbered 360 through and including 399 of the uniform system of accounts approved, as of the effective date of this amendment, by the Administrator, for use by Rural Electrification Administration borrowers; gross revenue shall be the amount shown in account numbered 400 of said system of accounts; and the cost of power shall be the total of amounts shown in accounts numbered 500 through and including 573 of said system of accounts as the same is constituted: *Provided, however,* That the Administrator may, in his sole discretion, make a loan to a telephone or electric borrower at the special rate if he finds that the borrower:

(A) has experienced extenuating circumstances or extreme hardship; or

(B) cannot, in accordance with generally accepted management and accounting prin-

ciples, produce net income or margins before interest at least equal to 150 per centum of its total interest requirements on all outstanding and proposed loans with an interest rate greater than 2 per centum per annum on the entire current loan, and still meet the objectives of this chapter, or

(C) cannot, in accordance with generally accepted management and accounting principles and without an excessive increase in the rates charged by such borrowers to their consumers or subscribers, provide service consistent with the objectives of this chapter.

(c) Sale and insurance of loans by Administrator

Loans made under this section shall be insured by the Administrator when purchased by a lender. As used in this chapter, an insured loan is one which is made, held, and serviced by the Administrator, and sold and insured by the Administrator hereunder; such loans shall be sold and insured by the Administrator without undue delay.

(May 20, 1936, ch. 432, title III, § 305, as added May 11, 1973, Pub. L. 93-32, § 2, 87 Stat. 68, and amended Oct. 20, 1976, Pub. L. 94-570, § 3, 90 Stat. 2701.)

REFERENCES IN TEXT

For effective date of this amendment, referred to in subsec. (b)(2), see Effective Date of 1976 Amendment note, set out under this section.

AMENDMENTS

1976—Subsec. (b). Pub. L. 94-570 deleted from introductory text "meets either of the following conditions" following "borrower which"; limited par. (1) to the telephone borrowers, substitituting provision for an average subscriber density of three or fewer per mile at the end of the most recent calendar year ending at least six months before approval of the loan for prior provision for an average consumer or subscriber density of two or fewer per mile; substituted in par. (2) provision, limited to electric borrowers, respecting having an average consumer density of two or fewer per mile or an average adjusted plant revenue ratio of over 9.0 at end of the most recent calendar year ending at least six months before approval of the loan, determination of such ratio, and defining sum of distribution plant and general plant, gross revenue, and cost of power for prior provision for and average gross revenue per mile which is at least $450 below the average gross revenue per mile of REA-financed electric systems, in the case of electric borrowers, or at least $300 below the average gross revenue per mile of REA-financed telephone systems, in the case of telephone borrowers; and inserted in proviso of par. (2) following "make a loan" the words "to a telephone or electric borrower".

EFFECTIVE DATE OF 1976 AMENDMENT; INTEREST RATE

Section 4 of Pub. L. 94-570 provided that: "This Act [amending subsec. (b) of this section and section 931(a)(4) of this title] shall take effect upon enactment [Oct. 20, 1976] except that insured loans made pursuant to applications for such loans which would otherwise lose eligibility for special rate financing upon such enactment, received by the Rural Electrification Administration and still pending on the date of enactment of this Act [Oct. 20, 1976], shall bear interest as determined under section 305(b) of the Rural Electrification Act of 1936 before its amendment by this Act [former provisions of subsec. (b) of this section]."

EFFECTIVE DATE

Section effective May 11, 1973, see section 12 of Pub. L. 93-32, set out as a note under section 930 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 939, 940 of this title.

§ 936. Guaranteed loans; accommodations and subordination of liens; assignability of guaranteed loans and related guarantees

The Administrator may provide financial assistance to borrowers for purposes provided in this chapter by guaranteeing loans, in the full amount thereof, made by the Rural Telephone Bank, National Rural Utilities Cooperative Finance Corporation, and any other legally organized lending agency, or by accommodating or subordinating liens or mortgages in the fund held by the Administrator as owner or as trustee or custodian for purchases of notes from the fund, or by any combination of such guarantee, accommodation, or subordination. No fees or charges shall be assessed for any such guarantee, accommodation, or subordination. Guaranteed loans shall bear interest at the rate agreed upon by the borrower and the lender. Guaranteed loans, and accommodation and subordination of liens or mortgages, may be made concurrently with a loan insured at the standard rate. The amount of guaranteed loans shall be subject only to such limitations as to amounts as may be authorized from time to time by the Congress of the United States: *Provided,* That any amounts guaranteed hereunder shall not be included in the totals of the budget of the United States Government and shall be exempt from any general limitation imposed by statute on expenditures and net lending (budget outlays) of the United States. As used in this subchapter a guaranteed loan is one which is initially made, held, and serviced by a legally organized lending agency and which is guaranteed by the Administrator hereunder. A guaranteed loan, including the related guarantee, may be assigned to the extent provided in the contract of guarantee executed by the Administrator under this subchapter; the assignability of such loan and guarantee shall be governed exclusively by said contract of guarantee.

(May 20, 1936, ch. 432, title III, § 306, as added May 11, 1973, Pub. L. 93-32, § 2, 87 Stat. 69, and amended Nov. 4, 1975, Pub. L. 94-124, § 1, 89 Stat. 677.)

AMENDMENTS

1975—Pub. L. 94-124 authorized the assignment of guaranteed loans and their related guarantees and inserted "initially" preceding "made, held, and serviced" in the provision defining guaranteed loans as that term is used in this subchapter.

EFFECTIVE DATE

Section effective May 11, 1973, see section 12 of Pub. L. 93-32, set out as a note under section 930 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 939 of this title.

§ 937. Loans from other credit sources

When it appears to the Administrator that the loan applicant is able to obtain a loan for part of his credit needs from a responsible cooperative or other credit source at reasonable rates and terms consistent with the loan applicant's ability to pay and the achievement of this chapter's objectives, he may request the loan applicant to apply for and accept such a loan concurrently with a loan insured at the standard rate, subject, however, to full use being made by the Administrator of the funds made available hereunder for such insured loans under this subchapter.

(May 20, 1936, ch. 432, title III, § 307, as added May 11, 1973, Pub. L. 93-32, § 2, 87 Stat. 70.)

EFFECTIVE DATE

Section effective May 11, 1973, see section 12 of Pub. L. 93-32, set out as a note under section 930 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 939 of this title.

§ 938. Full faith and credit of the United States

Any contract of insurance or guarantee executed by the Administrator under this subchapter shall be an obligation supported by the full faith and credit of the United States and incontestable except for fraud or misrepresentation of which the holder had actual knowledge at the time it became a holder.

(May 20, 1936, ch. 432, title III, § 308, as added May 11, 1973, Pub. L. 93-32, § 2, 87 Stat. 70, and amended Nov. 4, 1975, Pub. L. 94-124, § 2, 89 Stat. 677.)

AMENDMENTS

1975—Pub. L. 94-124 substituted "of which the holder had actual knowledge at the time it became a holder" for "of which the holder has actual knowledge".

EFFECTIVE DATE

Section effective May 11, 1973, see section 12 of Pub. L. 93-32, set out as a note under section 930 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 939 of this title.

§ 939. Loan terms and conditions

Loans made from or insured through the fund shall be for the same purposes and on the same terms and conditions as are provided for loans in subchapters I and II of this chapter except as otherwise provided in sections 933 to 938 inclusive.

(May 20, 1936, ch. 432, title III, § 309, as added May 11, 1973, Pub. L. 93-32, § 2, 87 Stat. 70.)

EFFECTIVE DATE

Section effective May 11, 1973, see section 12 of Pub. L. 93-32, set out as a note under section 930 of this title.

§ 940. Refinancing of rural development loans

At the request of the borrower, the Administrator is authorized and directed to refinance with loans which will be insured under this chapter at the interest rates provided in section 935 of this title any loans made for rural electric and telephone facilities under any provision of the Consolidated Farm and Rural Development Act [7 U.S.C. 1921 et seq.].

(May 20, 1936, ch. 432, title III, § 310, as added May 11, 1973, Pub. L. 93-32, § 2, 87 Stat. 70.)

REFERENCES IN TEXT

The Consolidated Farm and Rural Development Act, referred to in text, is title III of Pub. L. 87-128, Aug. 8, 1961, 75 Stat. 307, as amended, which is classified to chapter 50 (§ 1921 et seq.) of this title. For complete classification of the Act to the Code, see Short Title note set out under section 1921 of this title and Tables volume.

EFFECTIVE DATE

Section effective May 11, 1973, see section 12 of Pub. L. 93-32, set out as a note under section 930 of this title.

SUBCHAPTER IV—RURAL TELEPHONE BANK

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in section 931 of this title.

§ 941. Telephone Bank

(a) Establishment

There is hereby established a body corporate to be known as the Rural Telephone Bank (hereinafter called the telephone bank).

(b) General purposes

The general purposes of the telephone bank shall be to obtain an adequate supply of supplemental funds to the extent feasible from non-Federal sources, to utilize said funds in the making of loans under section 948 of this title, and to conduct its operations to the extent practicable on a self-sustaining basis.

(c) Status; payments in lieu of property taxes

The telephone bank shall be deemed to be an instrumentality of the United States, and shall, for the purposes of jurisdiction and venue, be deemed a citizen and resident of the District of Columbia. The telephone bank is authorized to make payments to State, territorial, and local governments in lieu of property taxes upon real property and tangible personal property which was subject to State, territorial, and local taxation before acquisition by the telephone bank. Such payment may be in the amounts, at the times, and upon such terms as the telephone bank deems appropriate but the telephone bank shall be guided by the policy of making payments not in excess of the taxes which would have been payable upon such property in the condition in which it was acquired.

(May 20, 1936, ch. 432, title IV, § 401, as added May 7, 1971, Pub. L. 92-12, § 2, 85 Stat. 30.)

EFFECTIVE DATE

Section effective May 7, 1971, see section 7 of Pub. L. 92-12, set out as a note under section 921a of this title.

§ 942. General powers

To carry out the specific powers herein authorized, the telephone bank shall have power to (a) adopt, alter, and use a corporate seal; (b) sue and be sued in its corporate name; (c) make

contracts, leases, and cooperative agreements, or enter into other transactions as may be necessary in the conduct of its business, and on such terms as it may deem appropriate; (d) acquire, in any lawful manner, hold, maintain, use, and dispose of property: *Provided,* That the telephone bank may only acquire property needed in the conduct of its banking operations or pledged or mortgaged to secure loans made hereunder or in temporary operation or maintenance thereof: *Provided further,* That any such pledged or mortgaged property so acquired shall be disposed of as promptly as is consistent with prudent liquidation practices, but in no event later than five years after such acquisition; (e) accept gifts or donations of services or of property in aid of any of the purposes herein authorized; (f) appoint such officers, attorneys, agents, and employees, vest them with such powers and duties, fix and pay such compensation to them for their services as the telephone bank may determine; (g) determine the character of and the necessity for its obligations and expenditures, and the manner in which they shall be incurred, allowed, and paid; (h) execute, in accordance with its bylaws, all instruments necessary or appropriate in the exercise of any of its powers; (i) collect or compromise all obligations assigned to or held by it and all legal or equitable rights accruing to it in connection with the payment of such obligations until such time as such obligations may be referred to the Attorney General for suit or collection; and (j) exercise all such other powers as shall be necessary or incidental to carrying out its functions under this subchapter.

(May 20, 1936, ch. 432, title IV, § 402, as added May 7, 1971, Pub. L. 92-12, § 2, 85 Stat. 30.)

EFFECTIVE DATE

Section effective May 7, 1971, see section 7 of Pub. L. 92-12, set out as a note under section 921a of this title.

§ 943. Special provisions governing telephone bank as a Federal agency until conversion of ownership, control, and operation

Until the ownership, control, and operation of the telephone bank is converted as provided in section 950(a) of this title and not thereafter—

(a) Supervision and direction of Secretary of Agriculture; free postage and priority of debts restrictions

the telephone bank shall be an agency of the United States and shall be subject to the supervision and direction of the Secretary of Agriculture (hereinafter called the Secretary): *Provided, however.* That the telephone bank shall at no time be entitled to transmission of its mail free of postage, nor shall it have the priority of the United States in the payment of debts out of bankrupt, insolvent, and decedents' estates;

(b) Use of facilities and services of employees of any agency of Department of Agriculture

in order to perform its responsibilities under this subchapter, the telephone bank may partially or jointly utilize the facilities and the services of employees of the Rural Electrification Administration or of any other agency of the Department of Agriculture, without cost to the telephone bank;

(c) Wholly owned Government corporation

the telephone bank shall be subject to the provisions of the Government Corporation Control Act, as amended [31 U.S.C. 841 et seq.], in the same manner and to the same extent as if it were included in the definition of "wholly owned Government corporation" as set forth in section 846 of title 31.

(d) Appointment and compensation of personnel

the telephone bank may without regard to the civil service [1] classification laws appoint and fix the compensation of such officers and employees of the telephone bank as it may deem necessary;

(e) Tort claims and litigation

the telephone bank shall be subject to the provisions of sections 517, 519, and 2679 of title 28.

(May 20, 1936, ch. 432, title IV, § 403, as added May 7, 1971, Pub. L. 92-12, § 2, 85 Stat. 31.)

REFERENCES IN TEXT

The Government Corporation Control Act, referred to in text, is act Dec. 6, 1945, ch. 557, 59 Stat. 597, which is classified generally to chapter 14 (§ 841 et seq.) of Title 31, Money and Finance. For complete classification of this Act to the Code, see Short Title note set out under section 841 of Title 31 and Tables volume.

Civil service classification laws, referred to in subsec. (d), probably should refer to civil service and classification laws. The civil service laws are set forth in Title 5, Government Organization and Employees. See, particularly, section 3301 et seq. of Title 5. The classification laws are set forth in chapter 51 and subchapter III of chapter 53 of Title 5.

EFFECTIVE DATE

Section effective May 7, 1971, see section 7 of Pub. L. 92-12, set out as a note under section 921a of this title.

§ 944. Governor of telephone bank; functions, powers, and duties

Subject to the provisions of section 950 of this title, the Administrator of the Rural Electrification Administration shall serve as the chief executive officer of the telephone bank (herein called the Governor of the telephone bank). Except as to matters specifically reserved to the Telephone Bank Board in this subchapter, the Governor of the telephone bank shall exercise and perform all functions, powers, and duties of the telephone bank.

(May 20, 1936, ch. 432, title IV, § 404, as added May 7, 1971, Pub. L. 92-12, § 2, 85 Stat. 31.)

EFFECTIVE DATE

Section effective May 7, 1971, see section 7 of Pub. L. 92-12, set out as a note under section 921a of this title.

§ 945. Telephone Bank Board

(a) Management of telephone bank; membership

The management of the telephone bank, within the limitations prescribed by law, shall be vested in a board of directors (herein called

[1] So in original. The word "and" probably should appear after "civil service".

the Telephone Bank Board) consisting of thirteen members.

(b) Federal agency and general public representation; additional compensation restriction

The Administrator of the Rural Electrification Administration and the Governor of the Farm Credit Administration shall be members of the Telephone Bank Board. Five other members of the Telephone Bank Board shall be designated by the President to serve at his pleasure, three of whom shall be officers or employees of the Department of Agriculture but not officers or employees of the Rural Electrification Administration, and two of whom shall be from the general public and not officers or employees of the Federal Government. The Administrator and other officers and employees of the Department of Agriculture and the Governor of the Farm Credit Administration shall serve as members without additional compensation.

(c) Selection of other Board members; initial appointment of eligible borrowers; service of appointees until election of successors

As soon as practicable after May 7, 1971, the President of the United States shall appoint six additional members of the initial Telephone Bank Board to be selected from the directors, managers, and employees of any entities eligible to borrow from the telephone bank and of organizations controlled by such entities, with due regard to fair representation of the rural telephone systems of the Nation. The six members thus appointed shall serve until their successors shall have been duly elected in accordance with subsection (d) of this section.

(d) Interim election by eligible borrowers of representatives from cooperative-type and commercial type entities; notice of election; voting: majority, proxies; term

Within twelve months following the appointment of the six members of the initial Board as provided in subsection (c) of this section, the Governor of the telephone bank shall call a meeting of all entities then eligible to borrow from the telephone bank and organizations controlled by such entities for the purpose of electing members of the Telephone Bank Board. Each such entity and organization shall be entitled to notice of and shall have one noncumulative vote at said meeting. Six members of the Telephone Bank Board shall be elected for a two-year term, three from among the directors, managers, and employees of cooperative-type entities eligible to vote and organizations controlled by such entities, and three from among the managers, directors, and employees of commercial-type entities eligible to vote and organizations controlled by such entities. These six members shall be elected by majority vote of the entities and organizations eligible to vote and such entities and organizations may vote by proxy.

(e) Election of representatives of cooperative-type and commercial-type entities and organizations; voting; majority; proxy voting; cumulative voting prohibited

Thereafter, the cooperative-type entities and organizations holding class B and class C stock, voting as a separate class, shall elect three directors to represent their class by a majority vote of the stockholders voting in such class; and the commercial-type entities and organizations holding class B and class C stock, voting as a separate class, shall elect three directors to represent their class by a majority vote of the stockholders voting in such class. Limited proxy voting may be permitted, as authorized by the bylaws of the telephone bank. Cumulative voting shall not be permitted.

(f) Service of member after expiration of term; compensation; travel and other expenses

Any Telephone Bank Board member may continue to serve after the expiration of the term for which he is elected until his successor has been elected and has qualified. Telephone Bank Board members designated from the general public, pursuant to subsection (b) of this section, or appointed or elected pursuant to subsections (c), (d), and (e) of this section, shall receive $100 for each day or part thereof, not to exceed one hundred days per year for the first three years after May 7, 1971, and not to exceed fifty days per year thereafter, spent in the performance of official duties, and shall be reimbursed for travel and other expenses in such manner and subject to such limitations as the Telephone Bank Board may prescribe.

(g) Bylaws

The Telephone Bank Board shall prescribe bylaws, not inconsistent with law, regulating the manner in which the telephone bank's business shall be conducted, its directors and officers elected, its stock issued, held, and disposed of, its property transferred, its bylaws amended, and the powers and privileges granted to it by law exercised and enjoyed.

(h) Meetings: regular and special

The Telephone Bank Board shall meet at such times and places as it may fix and determine, but shall hold at least four regularly scheduled meetings a year, and special meetings may be held on call in the manner specified in the bylaws of the telephone bank.

(i) Annual report; transmittal to Congress

The Telephone Bank Board shall make an annual report to the Secretary for transmittal to the Congress on the administration of this subchapter and any other matters relating to the effectuation of the policies of this subchapter, including recommendations for legislation.

(May 20, 1936, ch. 432, title IV, § 405, as added May 7, 1971, Pub. L. 92-12, § 2, 85 Stat. 32, and amended May 11, 1973, Pub. L. 93-32, § 4, 87 Stat. 70.)

AMENDMENTS

1973—Subsec. (e). Pub. L. 93-32 substituted provisions directing that the cooperative-type entities and organizations holding class B and class C stock, voting as a separate class, elect three directors to represent their class by a majority of the stockholders voting in such class and that the commercial-type entities and organizations holding class B and class C stock, voting as a separate class, elect three directors to represent their class by a majority of the stockholders voting in such class, for provisions that three directors be elected from among the directors, managers, and employees of cooperative-type entities and organizations controlled by such entities holding class B or class C stock and that three directors be elected from among the di-

rectors, managers, and employees of commercial-type entities and organizations controlled by such entities holding class B or class C stock, and added provisions prohibiting cumulative voting.

EFFECTIVE DATE OF 1973 AMENDMENT

Amendment by Pub. L. 93-32 effective May 11, 1973, see section 12 of Pub. L. 93-32, set out as a note under section 930 of this title.

EFFECTIVE DATE

Section effective May 7, 1971, see section 7 of Pub. L. 92-12, set out as a note under section 921a of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 950 of this title.

§ 946. Capitalization

(a) Federal and borrower subscriptions; Federal limitation; report to President, transmittal to Congress; net collection proceeds

The telephone bank's capital shall consist of capital subscribed by the United States, by borrowers from the telephone bank, by corporations and public bodies eligible to become borrowers from the telephone bank, and by organizations controlled by such borrowers, corporations, and public bodies. Beginning with the fiscal year 1971 and for each fiscal year thereafter, the United States shall furnish capital for the purchase of class A stock and there are hereby authorized to be appropriated such amounts, not to exceed $30,000,000 annually, for such purchase until such class A stock shall equal $300,000,000: *Provided,* That on or before July 1, 1975, the Secretary shall make a report to the President for transmittal to the Congress on the status of capitalization of the telephone bank by the United States with appropriate recommendations. As used in this section and section 931 of this title, the term "net collection proceeds" shall be deemed to mean payments from and after July 1, 1969, of principal and interest on loans heretofore or hereafter made under section 922 of this title, less an amount representing interest payable to the Secretary of the Treasury on loans to the Administrator for telephone purposes pursuant to section 903(a) of this title.

(b) Stock classification; voting stock; one vote rule

The capital stock of the telephone bank shall consist of three classes, class A, class B, and class C, the rights, powers, privileges, and preferences of the separate classes to be as specified, not inconsistent with law, in the bylaws of the telephone bank. Class B and class C stock shall be voting stock, but no holder of said stock shall be entitled to more than one vote, nor shall class B and class C stockholders, regardless of their number, which are owned or controlled by the same person, group of persons, firm, association, or corporation, be entitled in any event to more than one vote.

(c) Class A stock; issuance to Administrator and redemption; cumulative return

Class A stock shall be issued only to the Administrator of the Rural Electrification Administration on behalf of the United States in exchange for capital furnished to the telephone bank pursuant to subsection (a) of this section, and such class A stock shall be redeemed and retired by the telephone bank as soon as practicable after September 30, 1985, but not to the extent that the Telephone Bank Board determines that such retirement will impair the operations of the telephone bank: *Provided,* That the minimum amount of class A stock that shall be retired each year after said date and after the amount of class A and class B stock issued totals $400,000,000, shall equal the amount of class B stock sold by the telephone bank during such year. Class A stock shall be entitled to a return, payable from income, at the rate of 2 per centum per annum on the amounts of said class A stock actually paid into the telephone bank. Such return shall be cumulative and shall be payable annually into miscellaneous receipts of the Treasury.

(d) Class B stock; borrowers as holders; dividend prohibition; patronage refunds

Class B stock shall be held only by recipients of loans under section 948 of this title. Borrowers receiving loan funds pursuant to section 948(a)(1) or (2) of this title shall be required to invest in class B stock 5 per centum of the amount of loan funds so provided. No dividends shall be payable on class B stock. All holders of class B shall be entitled to patronage refunds in class B stock under terms and conditions to be specified in the bylaws of the telephone bank.

(e) Class C stock; borrowers as purchasers; dividends

Class C stock shall be available for purchase and shall be held only by borrowers, or by corporations and public bodies eligible to borrow under section 948 of this title, or by organizations controlled by such borrowers, corporations and public bodies, and shall be entitled to dividends in the manner specified in the bylaws of the telephone bank. Such dividends shall be payable only from income and, until all class A stock is retired, shall not exceed the current average rate payable on its telephone debentures.

(f) Special fund equivalents

If a firm, association, corporation, or public body is not authorized under the laws of the jurisdiction in which it is organized to acquire stock of the telephone bank, the telephone bank shall, in lieu thereof, permit such organization to pay into a special fund of the telephone bank a sum equivalent to the amount of stock to be purchased. Each reference in this subchapter to capital stock, or to class B, or class C stock, shall include also the special fund equivalents of such stock, and to the extent permitted under the laws of the jurisdiction in which such organization is organized, a holder of special fund equivalents of class B, or class C stock, shall have the same rights and status as a holder of class B or class C stock, respectively. The rights and obligations of the telephone bank in respect of such special fund equivalent shall be identical to its rights and obligations in respect of class B or class C stock, respectively.

(g) Patronage refunds from remaining earnings after provisions for operating expenses, reserves for losses, payments in lieu of taxes, and returns on class A and B stock

After payment of all operating expenses of the telephone bank, including interest on its telephone debentures, setting aside appropriate funds for reserves for losses, and making pay-

ments in lieu of taxes, and returns on class A stock as provided in subsection (c) of this section, and on class C stock, the Telephone Bank Board shall annually set aside the remaining earnings of the telephone bank for patronage refunds in accordance with the bylaws of the telephone bank.

(May 20, 1936, ch. 432, title IV, § 406, as added May 7, 1971, Pub. L. 92-12, § 2, 85 Stat. 33, and amended May 11, 1973, Pub. L. 93-32, § 5, 87 Stat. 70; Apr. 21, 1976, Pub. L. 94-273, § 2(2), 90 Stat. 375.)

AMENDMENTS

1976—Subsec. (c). Pub. L. 94-273 substituted "September" for "June".

1973—Subsec. (a). Pub. L. 93-92 struck out "from net collection proceeds in the rural telephone account created under subchapter III of this chapter" following "appropriated".

EFFECTIVE DATE OF 1973 AMENDMENT

Amendment by Pub. L. 93-32 effective May 11, 1973, see section 12 of Pub. L. 93-32, set out as a note under section 930 of this title.

EFFECTIVE DATE

Section effective May 7, 1971, see section 7 of Pub. L. 92-12, set out as a note under section 921a of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 931, 948, 950 of this title.

§ 947. Borrowing power; telephone debentures; issuance; interest rates; terms and conditions; ratio to paid-in capital and retained earnings; investments in debentures; debentures as security; purchase and sale of debentures by the Secretary of the Treasury; treatment as public debt transactions of the United States; exclusion of transactions from budget totals

(a) The telephone bank is authorized to obtain funds through the public or private sale of its bonds, debentures, notes, and other evidences of indebtedness (herein collectively called telephone debentures). Telephone debentures shall be issued at such times, bear interest at such rates, and contain such other terms and conditions as the Telephone Bank Board shall determine: *Provided, however,* That the amount of the telephone debentures which may be outstanding at any one time pursuant to this section shall not exceed twenty times the paid-in capital and retained earnings of the telephone bank. Telephone debentures shall not be exempt, either as to principal or interest, from any taxation now or hereafter imposed by the United States, by any territory, dependency, or possession thereof, or by any State or local taxing authority. Telephone debentures shall be lawful investments and may be accepted as security for all fiduciary, trust, and public funds, the investment or deposit of which shall be under the authority and control of the United States or any officer or officers thereof.

(b) The Telephone Bank is also authorized to issue telephone debentures to the Secretary of the Treasury, and the Secretary of the Treasury may in his discretion purchase any such debentures, and for such purpose the Secretary of the Treasury is authorized to use as a public debt transaction the proceeds of the sale of any securities hereafter issued under the Second Liberty Bond Act, as now or hereafter in force, and the purposes for which securities may be issued under the Second Liberty Bond Act as now or hereafter in force are extended to include such purchases. Each purchase of telephone debentures by the Secretary of the Treasury under this subsection shall be upon such terms and conditions as to yield a return at a rate not less than a rate determined by the Secretary of the Treasury, taking into consideration the current average yield on outstanding marketable obligations of the United States of comparable maturity. The Secretary of the Treasury may sell, upon such terms and conditions and at such price or prices as he shall determine, any of the telephone debentures acquired by him under this subsection. All purchases and sales by the Secretary of the Treasury of such debentures under this subsection shall be treated as public debt transactions of the United States.

(c) Purchases and resales by the Secretary of the Treasury as authorized in subsection (b) of this section shall not be included in the totals of the budget of the United States Government and shall be exempt from any general limitation imposed by statute on expenditures and net lending (budget outlays) of the United States.

(May 20, 1936, ch. 432, title IV, § 407, as added May 7, 1971, Pub. L. 92-12, § 2, 85 Stat. 34, and amended June 30, 1972, Pub. L. 92-324, § 2, 86 Stat. 390; May 11, 1973, Pub. L. 93-32, §§ 6, 7, 87 Stat. 70.)

REFERENCES IN TEXT

The Second Liberty Bond Act, referred to in subsec. (b), is act Sept. 24, 1917, ch. 56, 40 Stat. 288, as amended. For classification of this Act to the Code, see References in Text note set out under section 774 of Title 31, Money and Finance, and Tables volume.

AMENDMENTS

1973—Subsec. (a). Pub. L. 93-32, § 6, increased from eight times the paid-in capital and retained earnings of the telephone bank to twenty times the paid-in capital and retained earnings of the telephone bank the amount of telephone debentures which may be outstanding at any one time and struck out provisions directing the insertion by the telephone bank in all its telephone debentures of appropriate language indicating that such telephone debentures together with interest thereon are not guaranteed by the United States and do not constitute a debt or obligation of the United States or of any agency or instrumentality thereof other than the telephone bank.

Subsec. (c). Pub. L. 93-32, § 7, added subsec. (c).

1972—Pub. L. 92-324 designated existing provisions as subsec. (a) and added subsec. (b).

EFFECTIVE DATE OF 1973 AMENDMENT

Amendment by Pub. L. 93-32 effective May 11, 1973, see section 12 of Pub. L. 92-32, set out as a note under section 930 of this title.

EFFECTIVE DATE OF 1972 AMENDMENT

Amendment by Pub. L. 92-324 effective June 30, 1972, see section 4 of Pub. L. 92-324, set out as a note under section 921b of this title.

EFFECTIVE DATE

Section effective May 7, 1971, see section 7 of Pub. L. 92-12, set out as a note under section 921a of this title.

§ 948. Lending power

(a) Loans for prescribed purposes; requisite conditions

The Governor of the telephone bank is authorized on behalf of the telephone bank to make loans, in conformance with policies approved by the Telephone Bank Board, to corporations and public bodies which have received a loan or loan commitment pursuant to section 922 of this title, or which have been certified by the Administrator to be eligible for such a loan or loan commitment, (1) for the same purposes and under the same limitations for which loans may be made under section 922 of this title, (2) for the purposes of financing, or refinancing, the construction, improvement, expansion, acquisition, and operation of telephone lines, facilities, or systems, in order to improve the efficiency, effectiveness, or financial stability of borrowers financed under section 922 of this title and this section, and (3) for the purchase of class B stock required to be purchased under section 946(d) of this title but not for the purchase of class C stock, subject, as to the purposes set forth in (2) hereof, to the following provisos: That in the case of any such loan for the acquisition of telephone lines, facilities, or systems, the acquisition shall be approved by the Secretary, the location and character thereof shall be such as to improve the efficiency, effectiveness, or financial stability of the telephone system of the borrower, and in respect of exchange facilities for local services, the size of each acquisition shall not be greater than the borrower's existing system at the time it receives its first loan from the telephone bank, taking into account the number of subscribers served, miles of line, and plant investment. Loans and advances made under this section shall not be included in the totals of the budget of the United States Government and shall be exempt from any general limitation imposed by statute on expenditures and net lending (budget outlays) of the United States.

(b) Terms and conditions of loans; restrictions on loans

Loans under this section shall be on such terms and conditions as the Governor of the telephone bank shall determine, subject, however, to the following restrictions:

(1) Amortization period

All loans made under this section shall be fully amortized over a period not to exceed fifty years.

(2) Preference in loans; election of loans for telephone system with certain subscriber density per mile

Funds to be loaned under this chapter to any borrower shall be loaned under this section in preference to section 922 of this title if the borrower is eligible for such a loan and funds are available therefor. Notwithstanding the foregoing or any other provision of law, all loans made pursuant to this chapter for facilities for telephone systems with an average subscriber density of three or fewer per mile shall be made under section 922 of this title; but this provision shall not preclude the making of such loans from the telephone bank at the election of the borrower.

(3) Interest rate

Loans under this section shall bear interest at the "cost of money rate". The cost of money rate is defined as the average cost of moneys to the telephone bank as determined by the Governor, but not less than 5 per centum per annum.

(4) Adequacy of security; repayment within agreed period; net income production of stated percentage of interest on loans: waiver

Loans shall not be made under this section unless the Governor of the telephone bank finds and certifies that in his judgment (i) the security therefor is reasonably adequate and such loan will be repaid within the time agreed, and (ii) the borrower has the capability of producing net income or margins before interest at least equal to 150 per centum of the interest requirements on all of its outstanding and proposed loans, or such higher per centum as may be fixed from time to time by the Telephone Bank Board in order to allocate available funds equitably among borrowers or to improve the marketability of the telephone debentures: *Provided, however,* That the Governor of the telephone bank may waive the requirement of (ii) above in any case if he shall determine (and set forth his reasons therefor in writing) that this requirement would prevent emergency restoration of the borrower's system or otherwise result in severe hardship to the borrower.

(5) Certificate of convenience and necessity required from State regulatory agency or statement of telephone bank's Governor of nonduplication of lines, facilities, or systems

No loan shall be made in any State which now has or may hereafter have a State regulatory body having authority to regulate telephone service and to require certificates of convenience and necessity to the applicant unless such certificate from such agency is first obtained. In a State in which there is no such agency or regulatory body legally authorized to issue such certificates to the applicant, no loan shall be made under this section unless the Governor of the telephone bank shall determine (and set forth his reasons therefor in writing) that no duplication of lines, facilities, or systems, providing reasonably adequate services will result therefrom.

(6) Definitions: telephone service; telephone lines, facilities, or systems

As used in this section, the term telephone service shall have the meaning prescribed for this term in section 924(a) of this title, and the term telephone lines, facilities, or systems shall mean lines, facilities, or systems used in the rendition of such telephone service.

(7) Sale or disposal of property, rights, or franchises prior to repayment of loan

No borrower of funds under this section shall, without approval of the Governor of the telephone bank under rules established by the Telephone Bank Board, sell or dispose of its property, rights, or franchises, acquired under the provisions of this chapter, until any loan obtained from the telephone bank, including all interest and charges, shall have been repaid.

(c) Payment schedule; adjustment; loan period

The Governor of the telephone bank is authorized under rules established by the Telephone Bank Board to adjust, on an amortized basis, the schedule of payments of interest or principal of loans made under this section upon his determination that with such readjustment there is reasonable assurance of repayment: *Provided, however,* That no adjustment shall extend the period of such loans beyond fifty years.

(May 20, 1936, ch. 432, title IV, § 408, as added May 7, 1971, Pub. L. 92-12, § 2, 85 Stat. 35, and amended May 11, 1973, Pub. L. 93-32, §§ 8, 9, 87 Stat. 70, 71.)

AMENDMENTS

1973—Subsec. (a). Pub. L. 93-32, § 8, inserted "or which have been certified by the Administrator to be eligible for such a loan or loan commitments," preceding clause (1) and added provision that loans and advances not be included in the totals of the budget of the United States Government and that such loans and advances be exempt from any general limitation imposed by statute expenditures and net lending (budget outlays) of the United States.

Subsec. (b)(3). Pub. L. 93-32, § 9, substituted provisions for a "cost of money rate" of interest with a "not less than 5 per centum per annum" limit on such rate, for provisions for interest "at the highest rate which meets the requirements set forth in paragraph (4), consistent with the borrower's ability to pay such interest rate and with achievement of the objectives of this chapter" with a "not less than 4 per centum per annum" limit on such rate.

EFFECTIVE DATE OF 1973 AMENDMENT

Amendment by Pub. L. 93-32 effective May 11, 1973, see section 12 of Pub. L. 93-32, set out as a note under section 930 of this title.

EFFECTIVE DATE

Section effective May 7, 1971, see section 7 of Pub. L. 92-12, set out as a note under section 921a of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 941, 946, 950, 950b of this title.

§ 949. Telephone bank receipts; availability for obligations and expenditures

Any receipts from the activities of the telephone bank shall be available for all obligations and expenditures of the telephone bank.

(May 20, 1936, ch. 432, title IV, § 409, as added May 7, 1971, Pub. L. 92-12, § 2, 85 Stat. 36.)

EFFECTIVE DATE

Section effective May 7, 1971, see section 7 of Pub. L. 92-12, set out as a note under section 921a of this title.

§ 950. Conversion of ownership, control, and operation of telephone bank

(a) Transfer of powers and authority from Administrator to Telephone Bank Board; cessation of Presidential appointees as Board members and reduction in number of Board members; status of telephone bank

Whenever fifty-one per centum of the maximum amount of class A stock issued to the United States and outstanding at any time after September 30, 1985, has been fully redeemed and retired pursuant to section 946(c) of this title—

(1) The powers and authority of the Governor of the telephone bank granted to the Administrator of the Rural Electrification Administration by this subchapter shall vest in the Telephone Bank Board, and may be exercised and performed through the Governor of the telephone bank, to be selected by the Telephone Bank Board, and through such other employees as the Telephone Bank Board shall designate;

(2) the five members of the Telephone Bank Board designated by the President pursuant to section 945(b) of this title shall cease to be members, and the number of Board members shall be accordingly reduced to eight unless other provision is thereafter made in the bylaws of the telephone bank;

(3) the telephone bank shall cease to be an agency of the United States, but shall continue in existence in perpetuity as an instrumentality of the United States and as a banking corporation with all of the powers and limitations conferred or imposed by this subchapter except such as shall have lapsed pursuant to the provisions of this subchapter.

(b) Restrictions of section 948(a)(2) of this title inapplicable to loans upon redemption and retirement of class A stock

When all class A stock has been fully redeemed and retired, loans made by the telephone bank shall not continue to be subject to the restrictions prescribed in the provisos to section 948(a)(2) of this title.

(c) Congressional review

Congress reserves the right to review the continued operations of the telephone bank after all class A stock has been fully redeemed and retired.

(May 20, 1936, ch. 432, title IV, § 410, as added May 7, 1971, Pub. L. 92-12, § 2, 85 Stat. 36, and amended Apr. 21, 1976, Pub. L. 94-273, § 2(2), 90 Stat. 375.)

AMENDMENTS

1976—Subsec. (a). Pub. L. 94-273 substituted "September" for "June".

EFFECTIVE DATE

Section effective May 7, 1971, see section 7 of Pub. L. 92-12, set out as a note under section 921a of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 943, 944 of this title.

§ 950a. Liquidation or dissolution of telephone bank

In the case of liquidation or dissolution of the telephone bank, after the payment or retirement, as the case may be, first, of all liabilities; second, of all class A stock at par; third, of all class B stock at par; fourth, of all class C stock at par; then any surpluses and contingency reserves existing on the effective date of liquidation or dissolution of the telephone bank shall be paid to the holders of class A and class B stock issued and outstanding before the effective date of such liquidation or dissolution, pro rata.

(May 20, 1936, ch. 432, title IV, § 411, as added May 7, 1971, Pub. L. 92-12, § 2, 85 Stat. 37.)

EFFECTIVE DATE

Section effective May 7, 1971, see section 7 of Pub. L. 92-12, set out as a note under section 921a of this title.

§ 950b. Borrower net worth

Except as provided in subsection (b)(2) of section 948 of this title, notwithstanding any other provision of law, a loan shall not be made under section 922 of this title to any borrower which during the immediately preceding year had a net worth in excess of 20 per centum of its assets unless the Administrator finds that the borrower cannot obtain such a loan from the telephone bank or from other reliable sources at reasonable rates of interest and terms and conditions.

(May 20, 1936, ch. 432, title IV, § 412, as added May 7, 1971, Pub. L. 92-12, § 2, 85 Stat. 37.)

EFFECTIVE DATE

Section effective May 7, 1971, see section 7 of Pub. L. 92-12, set out as a note under section 921a of this title.

CHAPTER 32—PEANUT STATISTICS

Sec.
951. Collection and publication; facts required; submission of report.
952. Repealed.
953. Reports; by whom made; penalties.
954. Grades and standards for classification.
955. Limitation on use of statistical information.
956. Rules and regulations; cooperation with departments, etc.; officers and employees; expenses of administration; authorization of appropriations.
957. Definitions.

§ 951. Collection and publication; facts required; submission of report

The Secretary of Agriculture is authorized and directed to collect and publish statistics of raw peanuts, shelled, unshelled, and crushed, and peanut oil, in the United States, received, processed, shipped, and owned by or in the possession of warehousemen, brokers, cleaners, shellers, dealers, growers' cooperative associations, crushers, salters, manufacturers of peanut products, and owners other than the original producers of peanuts: *Provided*, That the Secretary may, in his discretion, omit for any period of time to collect such statistics from any or all salters of peanuts or manufacturers of peanut products who used, during the calendar year preceding that for which statistics are being collected, less than thirty thousand pounds of shelled and unshelled peanuts. Such statistics shall show the quality of peanuts in such details as to kinds—Virginias, Runners, Spanish, and imported varieties—as the Secretary shall deem necessary for the purposes of this chapter. All reports shall be submitted monthly in each year, except as otherwise prescribed by the Secretary.

(June 24, 1936, ch. 745, § 1, 49 Stat. 1898; May 12, 1938, ch. 199, § 1, 52 Stat. 348; July 17, 1957, Pub. L. 85-105, § 1, 71 Stat. 306.)

AMENDMENTS

1957—Pub. L. 85-105 deleted from last sentence following "All reports" the clause "except those required from persons owning or operating peanut picking or threshing machines" and added thereto the clause "except as otherwise prescribed by the Secretary".

1938—Act May 12, 1938, among other changes, added the proviso.

§ 952. Repealed. Pub. L. 85-105, § 2, July 17, 1957, 71 Stat. 306

Section, acts June 24, 1936, ch. 745, § 2, 49 Stat. 1899; May 12, 1938, ch. 199, § 2, 52 Stat. 349, related to collection and publication of statistics as to quantity of peanuts picked or threshed by any person owning or operating peanut picking or threshing machines.

§ 953. Reports; by whom made; penalties

It shall be the duty of each warehouseman, broker, cleaner, sheller, dealer, growers' cooperative association, crusher, salter, manufacturer of peanut products, and owner other than the original producer of peanuts to furnish reports, complete and correct to the best of his knowledge, on the quantity of peanuts and peanut oil received, processed, shipped, and owned by him or in his possession. Such reports, when and as requested by the Secretary, shall be furnished within the time prescribed and in accordance with forms provided by him for the purpose. Any person required by this chapter, or the regulations promulgated thereunder, to furnish reports or information, and any officer, agent, or employee thereof, who shall refuse to give such reports or information or shall willfully give answers that are false and misleading, shall be guilty of a misdemeanor, and upon conviction thereof shall be fined not less than $300 nor more than $1,000, or imprisoned not more than one year, or be subject to both such fine and imprisonment.

(June 24, 1936, ch. 745, § 3, 49 Stat. 1899; May 12, 1938, ch. 199, § 3, 52 Stat. 349; July 17, 1957, Pub. L. 85-105, § 3, 71 Stat. 306.)

AMENDMENTS

1957—Pub. L. 85-105 amended section generally, and, among other changes, divided first sentence into two sentences, substituting "owner other than the original producer of peanuts" for "owner or operator of peanut picking or threshing machines," and inserted in last sentence the words "to give such reports or information".

1938—Act May 12, 1938, among other changes, added "crusher, salter, manufacturer of peanut products" after "cooperative association".

CROSS REFERENCES

Misdemeanor defined, see section 1 of Title 18, Crimes and Criminal Procedure.

§ 954. Grades and standards for classification

The Secretary is authorized to establish and promulgate grades and standards for the classification of peanuts, whenever in his discretion he may see fit.

(June 24, 1936, ch. 745, § 4, 49 Stat. 1899.)

§ 955. Limitation on use of statistical information

The information furnished under the provisions of this chapter shall be used only for the statistical purposes for which it is supplied. No publication shall be made by the Secretary whereby the data furnished by any person can be identified nor shall the Secretary permit anyone other than the sworn employees of the Department of Agriculture to examine the individual reports.

(June 24, 1936, ch. 745, § 5, 49 Stat. 1899.)

§ 956. Rules and regulations; cooperation with departments, etc.; officers and employees; expenses of administration; authorization of appropriations

The Secretary may make rules and regulations as may be necessary in the administration of this chapter and may cooperate with any department or agency of the Government, any State, Territory, District, or possession, or department, agency, or political subdivision thereof, or any person; and shall have the power to appoint, remove, and fix the compensation of such officers and employees not in conflict with existing law, and make such expenditures for rent outside the District of Columbia, printing, binding, telegrams, telephones, law books, books of reference, publications, furniture, stationery, office equipment, travel, and other supplies and expenses, including reporting services, as shall be necessary to the administration of this chapter in the District of Columbia and elsewhere, and as may be appropriated for by Congress; and there is authorized to be appropriated, out of any money in the Treasury not otherwise appropriated, such sums as may be necessary for such purpose.

(June 24, 1936, ch. 745, § 6, 49 Stat. 1899.)

§ 957. Definitions

When used in this chapter—

(1) The term "person" includes individuals, partnerships, corporations, and associations;

(2) The term "Secretary" means the Secretary of Agriculture.

(June 24, 1936, ch. 745, § 7, 49 Stat. 1899.)

CHAPTER 33—FARM TENANCY

Sec.
1000. Short title.

SUBCHAPTER I—TENANT PURCHASE LOANS AND MORTGAGE INSURANCE

1001 to 1006. Repealed.
1006a. Loans to homestead or desertland entrymen and purchasers of lands in reclamation projects; security; first repayment installment.
1006b. Cancellation of entry or purchase upon loan default; entry or resale; conditions; satisfaction of indebtedness.
1006c to 1006e. Repealed.

SUBCHAPTER II—OPERATING LOANS

1007. Repealed.
1007a. Omitted.
1008, 1009. Repealed.

SUBCHAPTER III—LAND CONSERVATION AND LAND UTILIZATION

1010. Land conservation and land utilization.
1010a. Soil, water and related resource data; report.
1011. Powers of Secretary of Agriculture.
1012. Payments to counties.
1012a. Townsites.
1013. Omitted.
1013a. Benefits extended to Puerto Rico and Virgin Islands; county defined; payments to Governor or fiscal agent of county.

SUBCHAPTER IV—GENERAL PROVISIONS

1014 to 1029. Repealed.
1030. Consolidation of agricultural credit and service offices.
1031. Conveyance of mineral rights with land.
1032. Transfer of rights and duties of Reconstruction Finance Corporation arising out of rehabilitation and farm tenancy loans to Secretary of the Treasury.
1033. Sale of reserved mineral interests.
1034. Persons to whom mineral interests sold; conveyances.
1035. Sale of mineral interests; consideration; transfer of unsold interests to Secretary of Interior.
1036. Repealed.
1037. Sale of reserved mineral interests; disposition of proceeds.
1038. Regulations; delegations of authority.
1039. Time for filing purchase applications.
1040. Farmers' Home Administration funds account.

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in sections 1006a, 1931, 1981 of this title; title 12 sections 84, 1150a; title 16 sections 241e, 441h, 441i; title 18 section 433; title 25 section 621; title 38 section 1811.

§ 1000. Short title

Sections 1001 to 1006, 1006c to 1006e, 1007, 1008 to 1010, 1011, 1012, and 1013 to 1029 of this title may be cited as "The Bankhead-Jones Farm Tenant Act."

(July 22, 1937, ch. 517, 50 Stat. 522.)

REPEALS

Pub. L. 87-128, title III, § 341(a), Aug. 8, 1961, 75 Stat. 318, repealed titles I, II, and IV of the Bankhead-Jones Farm Tenant Act, sections 1001 to 1006, 1006c to 1006e, 1007, 1008, 1009, 1014 to 1025, and 1027 to 1029 of this title. Section 341(a) of Pub. L. 87-128 also provided that reference to any provision of the Bankhead-Jones Farm Tenant Act superseded by any provision of title III of Pub. L. 87-128 shall be construed as referring to the appropriate provision of such title. See section 1921 et seq. of this title. Section 1013 expired by its own terms and has been omitted.

SUBCHAPTER I—TENANT PURCHASE LOANS AND MORTGAGE INSURANCE

AMENDMENTS

1946—Act Aug. 14, 1946, ch. 964, § 5, 60 Stat. 1072, amended subchapter heading to read as now set out.

§§ 1001 to 1006. Repealed. Pub. L. 87-128, title III, § 341(a), Aug. 8, 1961, 75 Stat. 318

Section 1001, acts July 22, 1937, ch. 517, title I, § 1, 50 Stat. 522; Aug. 14, 1946, ch. 964, § 5, 60 Stat. 1072; June 30, 1953, ch. 174, § 2, 67 Stat. 132; Aug. 1, 1956, ch. 829, § 1(a) to (c), 70 Stat. 801; Sept. 2, 1958, Pub. L. 85-857, § 13(j), 72 Stat. 1265, related to power of Secretary of Agriculture, persons, eligible, preferences, and conditions for loan or mortgage.

Section 1002, acts July 22, 1937, ch. 517, title I, § 2, 50 Stat. 523; Aug. 14, 1946, ch. 964, § 5, 60 Stat. 1072; Aug. 1, 1956, ch. 829, § 1(d), 70 Stat. 801, related to examination, appraisal, and certification of loans and insurance by county committee.

Section 1003, acts July 22, 1937, ch. 517, title I, § 3, 50 Stat. 523; Aug. 14, 1946, ch. 964, § 5, 60 Stat. 1072; June 19, 1948, ch. 551, § 1, 62 Stat. 534; July 22, 1954, ch. 562, § 1(a), (b), 68 Stat. 525; Aug. 1, 1956, ch. 829, § 1(e), 70 Stat. 801, related to terms of loans.

Section 1004, acts July 22, 1937, ch. 517, title I, § 4, 50 Stat. 524; Aug. 14, 1946, ch. 964, § 5, 60 Stat. 1072; Aug. 23, 1951, ch. 344, § 1, 65 Stat. 197; Aug. 3, 1956, ch. 950, § 9(a) 70 Stat. 1034, provided for equitable distribution of loans.

Section 1005, acts July 22, 1937, ch. 517, title I, § 5, 50 Stat. 524; Aug. 14, 1946, ch. 964, § 5, 60 Stat. 1072,

authorized appropriations for carrying out provisions with respect to tenant-purchase loans and insured mortgages.

Section 1005a, act July 22, 1937, ch. 517, title I, § 11, as added Aug. 14, 1946, ch. 964, § 5, 60 Stat. 1072, and amended Aug. 30, 1954, ch. 1076, § 1(5), 68 Stat. 966, created the farm tenant mortgage insurance fund, authorized appropriation for such fund, provided for disposition of excess and use of funds.

Sections 1005b, act July 22, 1937, ch. 517, title I, § 12, as added Aug. 14, 1946, ch. 964, § 5, 60 Stat. 1072, and amended June 19, 1948, ch. 551, §§ 2 to 5, 62 Stat. 534; Aug. 23, 1951, ch. 344, § 1, 65 Stat. 197; July 22, 1954, ch. 562. § 1(c), 68 Stat. 525; Aug. 9, 1955, ch. 633, §§ 2, 3, 69 Stat. 544; Aug. 1, 1956, ch. 829, § 1(f), (g), 70 Stat. 802, authorized the Secretary to insure mortgages, provided for aggregate amount of mortgages, eligibility provisions, payment of initial fees and disposition thereof, collection of initial charge and disposition thereof, payment of sums to mortgagees, payment of full amount, repayment to fund, insurance contract as incontestable, release of mortgagor, assignment of mortgage, repurchase of insured mortgages, agreements and determination of value.

Section 1005c, act July 22, 1937, ch. 517, title I, § 13, as added Aug. 14, 1946, ch. 964, § 5, 60 Stat. 1072, and amended Aug. 9, 1955, ch. 633, § 4, 69 Stat. 554; Aug. 25, 1958, Pub. L. 85-748, § 1(b), 72 Stat. 841, related to payment of insurance upon default, issuance of notes, purchase of notes by Treasury and assignment of mortgage.

Section 1005d, act July 22, 1937, ch. 517, title I, § 14, as added Aug. 14, 1946, ch. 964, § 5, 60 Stat. 1072, and amended June 19, 1948, ch. 551, §§ 6, 7, 62 Stat. 536, related to procedure with respect to mortgages in default, disposition of realized amounts, and disbursements for preservation and protection.

Section 1006, act July 22, 1937, ch. 517, title I, § 6, 50 Stat. 524, related to authorization of appropriations and administrative expenses.

The subject matter of former sections 1001 to 1005d of this title is now covered by section 1921 et seq. of this title.

Effective Date of Repeal

Repeal of sections effective one hundred and twenty days after Aug. 8, 1961, or such earlier date as the provisions of section 1921 et seq. of this title are made effective by regulations of Secretary of Agriculture, see section 341(a) of Pub. L. 87-128, set out as a note under section 1921 of this title.

Sections repealed effective Oct. 15, 1961, by former section 300.1 of Title 6, Code of Federal Regulations, see Effective Date note under section 1921 of this title.

Short Title

Congress in enacting amendments to this chapter, section 371 of Title 12, Banks and Banking, section 82h of Title 31, Money and Finance, and section 35-535 of the District of Columbia Code, provided by section 1 of act Aug. 14, 1946, that they should be popularly known as the "Farmers' Home Administration Act of 1946".

Delay in Liquidation of Mineral Rights Reserved to the United States

Act June 30, 1948, ch. 766, 62 Stat. 1166, provided: "That, notwithstanding any other provision of law, no mineral interests reserved to the United States which are required to be liquidated under the terms of the Farmers' Home Administration Act of 1946 [see Short Title note above] shall be sold by the Secretary of Agriculture or transferred by him to appropriate agencies of the United States for disposition as surplus property of the United States until hereafter authorized by law. Nothing contained in this Act shall be construed to supersede or modify in any way the provisions of section 9 of the Farmers' Home Administration Act of 1946 [section 1031 of this title]."

Transfer and Disposition of Certain Agencies and Their Assets, Functions, and Personnel

Section 2 of act Aug. 14, 1946, as amended Apr. 28, 1947, ch. 43, § 1, 61 Stat. 55; Apr. 20, 1950, ch. 94, title II, § 205(a), 64 Stat. 73; May 3, 1950, ch. 152, § 7, 64 Stat. 100, provided that:

"(a) The following agencies, functions, powers, and duties are hereby abolished and the following laws relating thereto repealed:

"(1) The Farm Security Administration and all of its functions, powers, and duties.

"(2) All functions, powers, and duties of the Governor of the Farm Credit Administration which relate to the making, administration, and liquidation of (a) all loans to farmers under the Act entitled 'An Act to provide for loans to farmers for crop productions and harvesting during the year 1937, and for other purposes', approved January 29, 1937 [former sections 1020i to 1020n, and 1020o of Title 12, Banks and Banking]; (b) all loans identified or referred to in sections 5(b) all loans identified or referred to in sections 5(b), 5(c), and 5(d) of Executive Order Numbered 6084, dated March 27, 1933 [set out as a note preceding section 2241 of Title 12], and (c) all other emergency crop production, feed, seed, drought, and rehabilitation loans administered by the Farm Credit Administration on the effective date of this Act [Aug. 14, 1946].

"(3) All functions, powers, and duties of the National Housing Agency with respect to property, funds, and other assets which were formerly under the administration or supervision of the Farm Security Administration and were transferred to or consolidated with the National Housing Agency by Executive Order Numbered 9070 of February 24, 1942 except housing projects and except such other properties and assets as are now in the process of liquidation. [Functions of the National Housing Agency with respect to nonfarm-housing projects and other properties remaining under its jurisdiction pursuant to this paragraph were transferred to the Public Housing Commissioner by 1947 Reorg. Plan No. 3, eff. July 27, 1947, 12 F.R. 4983, 61 Stat. 954, set out in the Appendix to Title 5, Government Organization and Employees.]

"(b) All assets, funds, contracts, property, and records and all liabilities of the agencies abolished by this Act [see Short Title note above] and all assets, funds, contracts, property, and records which the Secretary of Agriculture, the Governor of the Farm Credit Administration, and the National Housing Administrator have been using or have acquired primarily in the administration of any function, power, or duty so abolished and all liabilities chargeable thereto shall be collected or liquidated, as the case may be, by the Secretary of Agriculture, in accordance with this Act and the Bankhead-Jones Farm Tenant Act, as amended [see section 1000 of this Title]. The Secretary shall promptly transmit to the Treasurer of the United States for appropriate credits all collections or other proceeds realized from the assets, funds, contracts and property which are authorized to be administered, collected or liquidated by this Act, except that (1) the Secretary may retain so much of the personal property, such as office furniture, equipment, machines, automobiles, stationery, and office supplies, as he finds will be necessary in carrying out his duties under this Act and the Bankhead-Jones Farm Tenant Act, as amended; (2) until the loans obtained by the Secretary of Agriculture or the War Food Administrator [terminated by Executive Order 9577 of June 29, 1945, effective June 30, 1945] from the Reconstruction Finance Corporation [abolished by Reorg. Plan No. 1 of 1957, eff. June 30, 1957, 22 F.R. 4633, 71 Stat. 647] for carrying on the Farm Security Programs have been paid, the Secretary shall pay to the Reconstruction Finance Corporation, as collected, in accordance with the terms of the applicable loan agreements, the proceeds of all assets transferred to him for administration and liquidation which are pledged as security for such loans; and (3) the proceeds from collections on farmers' crop production and harvesting loans [former sections 1020i to 1020n and 1020o of Title 12]

made available by the paragraph entitled 'Farmers' crop production and harvesting loans' under the item 'Farm Credit Administration' in the Department of Agriculture Appropriation Act, 1947 [act June 22, 1946, ch. 445, 60 Stat. 270], shall be available to the Secretary of Agriculture for the fiscal year 1947 for making loans under title II of the Bankhead-Jones Farm Tenant Act, as amended [former sections 1007, 1008 and 1009 of this title].

"(c) The funds appropriated, authorized to be borrowed, and made available under the items 'Farmers' crop production and harvesting loans' (under the heading 'Farm Credit Administration'), 'Loans, Grants, and Rural Rehabilitation' and 'Farm Tenancy', in the Department of Agriculture Appropriation Act, 1947 [act June 22, 1946, ch. 445, 60 Stat. 270], shall be available for the making and servicing of loans under this Act, for servicing and collecting loans made under prior authority, liquidation of rural rehabilitation projects, and for administrative expenses in connection therewith, and to the extent that such funds are validly obligated and committed on June 30, 1947, shall be available for use by the Secretary in fulfilling such obligations and commitments subject to the limitations set forth in the Acts appropriating or authorizing such funds."

"(d) [Repealed. Apr. 20, 1950, ch. 94, title II, § 205(a), 64 Stat. 73.]

"(e) Any of the personnel that is being utilized on the effective date of this Act [Aug. 14, 1946] for the performance of functions, powers, or duties abolished or transferred by this Act, including, but not limited to those related to emergency crop and feed loans, shall be utilized by the Secretary of Agriculture in the performance of his duties and functions under this Act and the Bankhead-Jones Farm Tenant Act, as amended, to the extent that he determines that such personnel are qualified and necessary therefor."

"(f) [Repealed. May 3, 1950, ch. 152, § 7, 64 Stat. 100.]

"(g) With the approval of the Secretary of Agriculture, the consummation of the transfer of any function, power, duty, asset, or liability transferred by this Act may be delayed not in excess of ninety days after the effective date of this Act, during which time such function, power, or duty, and any function, power, or duty abolished by this Act, may be administered by such agency as the Secretary may designate and in accordance with such rules and regulations as the Secretary may prescribe. Such rules and regulations shall, however, conform as nearly as may be practicable to the provisions of this Act, the several appropriation Acts which are involved, or the Bankhead-Jones Farm Tenant Act, as amended whichever is appropriate."

APPROPRIATION FOR LOANS

The Department of Agriculture Appropriation Act of 1947, June 22, 1946, ch. 445, § 1, 60 Stat. 294, provided in part: "For loans to individual farmers in accordance with title I of said Act [former sections 1001 to 1005d, 1006, 1006c to 1006e of this title] and section 505(b) of the Servicemen's Readjustment Act of 1944 (38 U.S.C. 694e(b) [former section 1001(b)(2) of this title]), $50,000,000, including $25,000,000 for loans to eligible veterans which may be distributed, without regard to the provisions of section 4 of the Bankhead-Jones Farm Tenant Act [former section 1004 of this title], among the States and Territories in such amounts as are necessary to make such loans, which sums shall be borrowed from the [former] Reconstruction Finance Corporation at an interest rate of not to exceed 3 per centum per annum and no loans, excepting those to eligible veterans, may be made for the acquisition or enlargement of farms which have a value, as acquired, enlarged, or improved, in excess of the average value of efficient family-size farm-management units, as determined by the Secretary, in the county, parish, or locality where the farm is located; and the [former] Reconstruction Finance Corporation is hereby authorized and directed to lend such sum to the Secretary upon the security of any obligations of borrowers from the Secretary under the provisions of title I of the Bankhead-Jones Farm Tenant Act, approved July 22, 1937 [former sections 1001 to 1005d, 1006, 1006c to 1006e of this title]: *Provided*, That the amount loaned by the [former] Reconstruction Finance Corporation shall not exceed 85 per centum of the principal amount outstanding of the obligations constituting the security therefor: *Provided further*, That the Secretary may utilize proceeds from payments of principal and interest on any loans made under such title I to repay the [former] Reconstruction Finance Corporation the amount borrowed therefrom under the authority of this paragraph."

Similar appropriations have been carried in prior appropriation acts as follows:

May 5, 1945, ch. 109, § 1, 59 Stat. 161.
June 28, 1944, ch. 296, § 1, 58 Stat. 457.
July 12, 1943, ch. 214, § 1, 57 Stat. 427.
July 22, 1942, ch. 516, § 1, 56 Stat. 695.
July 1, 1941, ch. 267, § 1, 55 Stat. 439.
June 25, 1940, ch. 421, § 1, 54 Stat. 564.

§ 1006a. Loans to homestead or desertland entrymen and purchasers of lands in reclamation projects; security; first repayment installment

The Secretary of Agriculture is authorized to make a loan or loans for any purpose authorized by and in accordance with the terms of the Bankhead-Jones Farm Tenant Act, as amended, or the Act of August 28, 1937, as amended, to any person eligible for assistance under said Acts who has made or makes a homestead or desertland entry on public land or who has contracted for or contracts for the purchase of other land of the United States in a reclamation project pursuant to the applicable provisions of the homestead and reclamation laws. Any such loans required by the Secretary of Agriculture or by law to be secured by a real-estate mortgage may be secured by a mortgage contract which shall create a lien against the land in favor of the United States acting through the Secretary of Agriculture and any patent thereafter issued shall recite the existence of such lien. The first installment for the repayment of any such loan or any other loan made under the Bankhead-Jones Farm Tenant Act, as amended, or the Act of August 28, 1937, as amended, to the owner of a newly irrigated farm in a reclamation project or to an entryman under the desertland laws, may be deferred for a period of not to exceed two years from the date of the first advance under such loan.

(Oct. 19, 1949, ch. 697, § 1, 63 Stat. 883; Aug. 30, 1972, Pub. L. 92-419, title VI, § 602, 86 Stat. 675.)

REFERENCES IN TEXT

The Bankhead-Jones Farm Tenant Act, as amended, referred to in text, is act July 22, 1937, ch. 517, 50 Stat. 522. For classification of this Act to the Code, see section 1000 of this title and Tables volume.

The Act of August 28, 1937, as amended, referred to in text, was classified to former sections 590r to 590x-4 of Title 16, Conservation. Sections 590r to 590x-4 were repealed by Pub. L. 87-128, title III, § 341(a), Aug. 8, 1961, 75 Stat. 318, and are now covered by section 921 et seq. of this title.

Desertland laws, referred to in the text, means Desert Land Act of 1877, which is act Mar. 3, 1877, ch. 107, 19 Stat. 377. For classification of this Act to the Code, see Tables volume.

CODIFICATION

Section was not enacted as a part of the Bankhead-Jones Farm Tenant Act, which constitutes major part of this chapter.

AMENDMENTS

1972—Pub. L. 92-419 authorized loans to desertland entrymen and provided for first repayment installment of a loan to an entryman under the desertland laws.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1006b, 1988 of this title; title 43 section 451f.

§ 1006b. Cancellation of entry or purchase upon loan default; entry or resale; conditions; satisfaction of indebtedness

Any entry or purchase contract land with respect to which a loan is made under the authority of this section and section 1006a of this title shall be subject to cancellation by the Secretary of the Interior as provided by existing law or upon request of the Secretary of Agriculture whenever default occurs in the terms, conditions, covenants, or obligations contained in the mortgage. After cancellation or relinquishment of an entry or purchase contract, land on which there is a mortgage lien, pursuant to the provisions of said sections, shall thereafter, except as hereinafter provided, only be open to entry or resale to persons eligible for both an original entry or purchase contract and an original loan. Such entry or resale shall be subject to the outstanding balance of any amounts due the United States with respect to such land or such portion thereof as may be determined by the Secretary of Agriculture and the Secretary of the Interior, or their delegates, to be within the entryman's or purchaser's ability to pay on the basis of the long-time earning capacity of the land. If no entry or purchase is made within one year after the cancellation or relinquishment of a prior entry or purchase of land on which there is such a mortgage lien, the land shall be disposed of by the Secretary of Agriculture on terms consistent with the provisions of section 1017 of this title, for the satisfaction of the indebtedness secured by the mortgage, subject, however, to other outstanding charges on the land due the United States, and the purchaser of such land shall be entitled to the issuance of patent or deed upon the completion of all requirements with respect to the payment of such charges.

(Oct. 19, 1949, ch. 697, § 2, 63 Stat. 883.)

REFERENCES IN TEXT

Section 1017 of this title, referred to in the text, was repealed by Pub. L. 87-128, title III, § 341(a), Aug. 8, 1961, 75 Stat. 318.

CODIFICATION

Section was not enacted as a part of the Bankhead-Jones Farm Tenant Act, which constitutes major part of this chapter.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 43 section 451f.

§§ 1006c to 1006e. Repealed. Pub. L. 87-128, title III, § 341(a), Aug. 8, 1961, 75 Stat. 318

Section 1006c, act July 22, 1937, ch. 517, title I, § 16, as added Aug. 9, 1955, ch. 633, § 1, 69 Stat. 553, and amended Aug. 1, 1956, ch. 829, § 1(h), 70 Stat. 802, provided for additional insurance of loans, mortgages and other security, lien, definitions of mortgage, insured mortgage, mortgagor and mortgagee, conversion to insured loan and rights of holder of insured note.

Section 1006d, act July 22, 1937, ch. 517, title I, § 17, as added Aug. 1, 1956, ch. 829, § 1(i), 70 Stat. 802, and amended Sept. 21, 1959, Pub. L. 86-332, 73 Stat. 599, related to loans for refinancing indebtedness on farms of not more than family size and restrictions and limitations thereon.

Section 1006e, act July 22, 1937, ch. 517, title I, § 18, as added Aug. 25, 1958, Pub. L. 85-748, § 1(a), 72 Stat. 840, related to authorization of Secretary for execution, insurance and sale of loans, interest, insurance, appraisal and delinquency charges, computation of aggregate amount of principal obligations which may be insured, insurance of loans from funds advanced by lenders other than United States, provisions applicable to loans, conversion of loans to insured loans, expense funds, sale of loans on noninsured basis and assignment of loans.

The subject matter of former sections 1006c to 1006e of this title is now covered by section 1921 et seq. of this title.

EFFECTIVE DATE OF REPEAL

Repeal of sections effective one hundred and twenty days after Aug. 8, 1961, or such earlier date as the provisions of section 1921 et seq. of this title are made effective by regulations of Secretary of Agriculture, see section 341(a) of Pub. L. 87-128, set out as a note under section 1921 of this title.

Sections repealed effective Oct. 15, 1961, by former section 300.1 of Title 6, Code of Federal Regulations, see Effective Date note under section 1921 of this title.

SUBCHAPTER II—OPERATING LOANS

AMENDMENTS

1956—Act Aug. 1, 1956, ch. 829, § 2, (6), 70 Stat. 802, substituted "Operating Loans" for "Production and Subsistence Loans".

1946—Act Aug. 14, 1946, ch. 964, § 4, 60 Stat. 1071, substituted "Production and Subsistence Loans" for "Rehabilitation Loans".

§ 1007. Repealed. Pub. L. 87-128, title III, § 341(a), Aug. 8, 1961, 75 Stat. 318

Section, acts July 22, 1937, ch. 517, title II, § 21, 50 Stat. 524; Aug. 14, 1946, ch. 964, § 4, 60 Stat. 1071; Aug. 23, 1951, ch. 344, § 2, 65 Stat. 197; Aug. 1, 1956, ch. 829, § 2[6], 70 Stat. 802; Mar. 29, 1961, Pub. L. 87-8, 75 Stat. 17, related to eligible borrowers for production and subsistence loans and terms thereof. The subject matter of former section 1007 of this title is now covered by section 1921 et seq. of this title.

EFFECTIVE DATE OF REPEAL

Repeal of section effective one hundred and twenty days after Aug. 8, 1961, or such earlier date as the provisions of section 1921 et seq. of this title are made effective by regulations of Secretary of Agriculture, see section 341(a) of Pub. L. 87-128, set out as a note under section 1921 of this title.

Section repealed effective Oct. 15, 1961, by former section 300.1 of Title 6, Code of Federal Regulations, see Effective Date note under section 1921 of this title.

§ 1007a. Omitted

CODIFICATION

Section, act July 1, 1941, ch. 267, § 1, 55 Stat. 440, providing that rural rehabilitation loans should be subject to the conditions and penalties prescribed by

former sections 1020k and 1020n of Title 12, Banks and Banking, was superseded by the repeal of those sections by act Aug. 14, 1946, ch. 964, § 2(a)(2), 60 Stat. 1062. Section was not a part of the Bankhead-Jones Farm Tenant Act which constitutes major part of this chapter.

§§ 1008, 1009. Repealed. Pub. L. 87–128, title III, § 341 (a), Aug. 8, 1961, 75 Stat. 318

Section 1008, acts July 22, 1937, ch. 517, title II, § 22, 50 Stat. 525; Aug. 14, 1946, ch. 964, § 4, 60 Stat. 1071, related to debt adjustment.

Section 1009, acts July 22, 1937, ch. 517, title II, § 23, 50 Stat. 525; Aug. 14, 1946, ch. 964, § 4, 60 Stat. 1071, authorized appropriations for production and subsistence.

The subject matter of former sections 1008 and 1009 of this title is now covered by section 1921 et seq. of this title.

EFFECTIVE DATE OF REPEAL

Repeal of sections effective one hundred and twenty days after Aug. 8, 1961, or such earlier date as the provisions of section 1921 et seq. of this title are made effective by regulations of Secretary of Agriculture, see section 341(a) of Pub. L. 87–128, set out as a note under section 1921 of this title.

Sections repealed effective Oct. 15, 1961, by former section 300.1 of Title 6, Code of Federal Regulations, see Effective Date note under section 1921 of this title.

SUBCHAPTER III—LAND CONSERVATION AND LAND UTILIZATION

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in title 16 sections 241e, 441h, 1609; title 30 section 601.

§ 1010. Land conservation and land utilization

The Secretary is authorized and directed to develop a program of land conservation and land utilization, in order thereby to correct maladjustments in land use, and thus assist in controlling soil erosion, reforestation, preserving natural resources, protecting fish and wildlife, developing and protecting recreational facilities, mitigating floods, preventing impairment of dams and reservoirs, conserving surface and subsurface moisture, protecting the watersheds of navigable streams, and protecting the public lands, health, safety, and welfare, but not to build industrial parks or establish private industrial or commercial enterprises.

(July 22, 1937, ch. 517, title III, § 31, 50 Stat. 525; Sept. 27, 1962, Pub. L. 87–703, title I, § 102(a), 76 Stat. 607; Nov. 8, 1966, Pub. L. 89–796, § 1(a), 80 Stat. 1478.)

Repeals

Section repealed by Pub. L. 94–579, title VII, § 706(a), Oct. 21, 1976, 90 Stat. 2793, effective on and after Oct. 21, 1976, insofar as applicable to the issuance of rights-of-way over, upon, under, and through the public lands and lands in the National Forest System.

AMENDMENTS

1966—Pub. L. 89–796 inserted "developing and protecting recreational facilities," following "protecting fish and wildlife,".

1962—Pub. L. 87–703 eliminated reference to "including the retirement of lands which are submarginal or not primarily suitable for cultivation," following "land utilization", provided for assistance in protecting fish and wildlife and prohibited the building of industrial parks or establishment of private industrial or commercial enterprises.

SAVINGS PROVISIONS

Repeal by Pub. L. 94–579, insofar as applicable to the issuance of rights-of-way, not to be construed as terminating any valid lease, permit, patent, etc., existing on Oct. 21, 1976, see note under section 1701 of Title 43, Public Lands.

EXISTING RIGHTS-OF-WAY

Provisions of section 706(a) of Pub. L. 94–579, except as pertaining to rights-of-way, not to be construed as affecting the authority of the Secretary of Agriculture under this section, see note under section 1701 of Title 43, Public Lands.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1011, 1033, 1931, 1981 of this title; title 16 sections 441h, 478a; title 30 section 601.

§ 1010a. Soil, water and related resource data; report

In recognition of the increasing need for soil, water, and related source data for land conservation, use, and development, for guidance of community development for a balanced rural-urban growth, for identification of prime agriculture producing areas that should be protected, and for use in protecting the quality of the environment, the Secretary of Agriculture is directed to carry out a land inventory and monitoring program to include, but not be limited to, studies and surveys of erosion and sediment damages, flood plain identification and utilization, land use changes and trends, and degradation of the environment resulting from improper use of soil, water, and related resources. The Secretary shall issue at not less than five-year intervals a land inventory report reflecting soil, water, and related resource conditions.

(Pub. L. 92–419, title III, § 302, Aug. 30, 1972, 86 Stat. 670.)

CODIFICATION

Section was not enacted as part of the Bankhead-Jones Farm Tenant Act which constitutes a major part of this chapter.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 16 section 1602.

§ 1011. Powers of Secretary of Agriculture

To effectuate the program provided for in section 1010 of this title, the Secretary is authorized—

(a) Repealed. Pub. L. 87–703, title I, § 102(b), Sept. 27, 1962, 76 Stat. 607.

(b) To protect, improve, develop, and administer any property so acquired and to construct such structures thereon as may be necessary to adapt it to its most beneficial use.

(c) To sell, exchange, lease, or otherwise dispose of, with or without a consideration, any property so acquired, under such terms and conditions as he deems will best accomplish the purposes of this subchapter, but any sale, exchange, or grant shall be made only to public authorities and agencies and only on condition that the property is used for public purposes: *Provided, however,* That an exchange may be made with private owners and with subdivisions

or agencies of State governments in any case where the Secretary of Agriculture finds that such exchange would not conflict with the purposes of the Act, and that the value of the property received in exchange is substantially equal to that of the property conveyed. The Secretary may recommend to the President other Federal, State, or Territorial agencies to administer such property, together with the conditions of use and administration which will best serve the purposes of a land-conservation and land-utilization program, and the President is authorized to transfer such property to such agencies.

(d) With respect to any land, or any interest therein, acquired by, or transferred to, the Secretary for the purposes of this subchapter, to make dedications or grants, in his discretion, for any public purpose, and to grant licenses and easements upon such terms as he deems reasonable.

(e) To cooperate with Federal, State, territorial, and other public agencies and local nonprofit organizations in developing plans for a program of land conservation and land utilization, to assist in carrying out such plans by means of loans to State and local public agencies and local nonprofit organizations designated by the State legislature or the Governor, to conduct surveys and investigations relating to conditions and factors affecting, and the methods of accomplishing most effectively the purposes of this subchapter, and to disseminate information concerning these activities. Loans to State and local public agencies and to local nonprofit organizations shall be made only if such plans have been submitted to, and not disapproved within 45 days by, the State agency having supervisory responsibility over such plans, or by the Governor if there is no such State agency. No appropriation shall be made for any single loan under this subsection in excess of $250,000 unless such loan has been approved by resolutions adopted by the Committee on Agriculture and Forestry of the Senate and the Committee on Agriculture of the House of Representatives. Loans under this subsection shall be made under contracts which will provide, under such terms and conditions as the Secretary deems appropriate, for the repayment thereof in not more than 30 years, with interest at the average rate, as determined by the Secretary of the Treasury, payable by the Treasury on its marketable public obligations outstanding at the beginning of the fiscal year in which the loan is made, which are neither due nor callable for redemption for 15 years from date of issue. Repayment of principal and interest on such loans shall begin within 5 years. In providing assistance for carrying out plans developed under this subchapter, the Secretary shall be authorized to bear such proportionate share of the costs of installing any works of improvement applicable to public water-based fish and wildlife or recreational development as is determined by him to be equitable in consideration of national needs and assistance authorized for similar purposes under other Federal programs: *Provided,* That all engineering and other technical assistance costs relating to such development may be borne by the Secretary: *Provided further,* That when a State or other public agency or local nonprofit organization participating in a plan developed under this subchapter agrees to operate and maintain any reservoir or other area included in a plan for public waterbased fish and wildlife or recreational development, the Secretary shall be authorized to bear not to exceed one-half of the costs of (a) the land, easements, or rights-of-way acquired or to be acquired by the State or other public agency or local nonprofit organization for such reservoir or other area, and (b) minimum basic facilities needed for public health and safety, access to, and use of such reservoir or other area for such purposes: *Provided further,* That in no event shall the Secretary share any portion of the cost of installing more than one such work of improvement for each seventy-five thousand acres in any project; and that any such public water-based fish and wildlife or receptional development shall be consistent with any existing comprehensive statewide outdoor recreation plan found adequate for purposes of the Land and Water Conservation Fund Act of 1965 [16 U.S.C. 460*l*–4 et seq.]; and that such cost-sharing assistance for any such development shall be authorized only if the Secretary determines that it cannot be provided under other existing authority.

The Secretary shall also be authorized in providing assistance for carrying out plans developed under this subchapter:

(1) To provide technical and other assistance, and to pay for any storage of water for present or anticipated future demands or needs for rural community water supply included in any reservoir structure constructed or modified pursuant to such plans: *Provided,* That the cost of water storage to meet future demands may not exceed 30 per centum of the total estimated cost of such reservoir structure and the public agency or local nonprofit organization shall give reasonable assurances, and there is evidence, that such demands for the use of such storage will be made within a period of time which will permit repayment of the cost of such water supply storage within the life of the reservoir structure: *Provided further,* That the public agency or local nonprofit organization prior to initiation or construction or modification of any reservoir structure including water supply storage, make provision satisfactory to the Secretary to pay for not less than 50 per centum of the cost of storage for present water supply demands, and all of the cost of storage for anticipated future demands: *And provided further,* That the cost to be borne by the public agency or local nonprofit organization for anticipated future demands may be repaid within the life of the reservoir structure but in no event to exceed fifty years after the reservoir structure is first used for the storage of water for anticipated future water supply demands except that (1) no payment on account of such cost need be made until such supply is first used, and (2) no interest shall be charged on such cost until such supply is first used, but in no case shall the interest-free period exceed ten years. The interest rate used for purposes of computing the interest on the unpaid balance shall be the average rate, as determined by the Secretary of the Treasury, payable by the Trea-

sury upon its marketable public obligations outstanding at the beginning of the fiscal year in which the advancement for such water supply is first made, which are neither due nor callable for redemption for fifteen years from date of issue;

(2) To provide, for the benefit of rural communities, technical and other assistance and such proportionate share of the costs of installing measures and facilities for water quality management, for the control and abatement of agriculture-related pollution, for the disposal of solid wastes, and for the storage of water in reservoirs, farm ponds, or other impoundments, together with necessary water withdrawal appurtenances, for rural fire protection, as is determined by the Secretary to be equitable in consideration of national needs and assistance authorized for similar purposes under other Federal programs.

(f) To make such rules and regulations as he deems necessary to prevent trespasses and otherwise regulate the use and occupancy of property acquired by, or transferred to, the Secretary for the purposes of this subchapter, in order to conserve and utilize it or advance the purposes of this subchapter. Any violation of such rules and regulations shall be punished by a fine of not more than $500 or imprisonment for not more than six months, or both. Any person charged with the violation of such rules and regulations may be tried and sentenced by any United States magistrate specially designated for that purpose by the court by which he was appointed, in the same manner and subject to the same conditions as provided for in section 3401 (b) to (e) of title 18.

(July 22, 1937, ch. 517, title III, § 32, 50 Stat. 525; July 28, 1942, ch. 531, 56 Stat. 725; Sept. 27, 1962, Pub. L. 87-703, title I, § 102(b), (c), 76 Stat. 607; Oct. 23, 1962, Pub. L. 87-869, § 7, 76 Stat. 1157; Aug. 31, 1964, Pub. L. 88-537, 78 Stat. 745; Nov. 8, 1966, Pub. L. 89-796, § 1(b), 80 Stat. 1478; Oct. 17, 1968, Pub. L. 90-578, title IV, § 402(b)(2), 82 Stat. 1118; July 18, 1970, Pub. L. 91-343, 84 Stat. 439; Aug. 30, 1972, Pub. L. 92-419, title III, § 301, 86 Stat. 669.)

Repeals

Section repealed by Pub. L. 94-579, title VII, § 706(a), Oct. 21, 1976, 90 Stat. 2793, effective on and after Oct. 21, 1976, insofar as applicable to the issuance of rights-of-way over, upon, under, and through the public lands and lands in the National Forest System.

REFERENCES IN TEXT

The Act, referred to in subdiv. (c), is the Bankhead-Jones Farm Tenant Act. For classification of the Act to this Code, see section 1000 of this title.

The Land and Water Conservation Fund Act of 1965, referred to in subdiv. (e), is Pub. L. 88-578, Sept. 3, 1964, 78 Stat. 897, which is classified generally to part B (§ 460*l*-4 et seq.) of subchapter LXIX of chapter 1 of Title 16, Conservation. For classification of this Act to the Code, see Short Title note set out under section 460*l*-4 of Title 16 and Tables volume.

AMENDMENTS

1972—Subsec. (e). Pub. L. 92-419 added par. (1) and (2) provisions which authorized Secretary of Agriculture to provide Federal assistance for water storage and for water quality management, for control and abatement of agriculture-related pollution, for disposal of solid wastes, and for storage of water in reservoirs, farm ponds, or other impoundments, together with necessary water withdrawal appurtenances, for rural fire protection.

1970—Subsec. (e). Pub. L. 91-343 added provisions authorizing the Secretary to bear an equitable share of the costs of installing works of improvement, to bear all engineering and other technical assistance costs, and to bear up to one half of the costs of land, easements or rights of way and minimum basic public facilities, and limited the federal contribution to one work of improvement for each seventy-five thousand acres in any project where such assistance is not provided under any other authority.

1966—Pub. L. 89-796 added "local nonprofit organizations" to the enumerated public agencies to which this section is applicable.

1964—Subsec. (f). Pub. L. 88-537 provided that persons charged with violation of such rules and regulations may be tried and sentenced by any United States commissioner specially designated for that purpose by the court by which he was appointed, in the same manner as in section 3401 (b) to (e) of Title 18, Crimes and Criminal Procedure.

1962—Subsec. (a). Pub. L. 87-703, § 102(b), repealed the authority of the Secretary to acquire submarginal land and land not primarily suitable for cultivation, and interests in and options on such land.

Subsec. (e). Pub. L. 87-703, § 102(c), authorized the Secretary to assist in carrying out the plans by means of loans to State and local public agencies, conditioned loans on absence of disapproval of plans within 45 days, prescribed a $250,000 limitation on appropriation for a single loan without prior committee approval and provided for loan contracts and interest and repayment of principal and interest.

Subsec. (f). Pub. L. 87-869 substituted "by a fine of not more than $500 or imprisonment for not more than six months, or both" for "as prescribed in section 104 of Title 18".

1942—Subsec. (c). Act July 28, 1942, added proviso.

CHANGE OF NAME

"United States magistrate" was substituted for "United States commissioner" in subsec. (f) pursuant to Pub. L. 90-578, title IV, § 402(b)(2), Oct. 17, 1968, 82 Stat. 1118. See chapter 43 (§ 631 et seq.) of Title 28, Judiciary and Judicial Procedure.

TRANSFER OF FUNCTIONS

Functions of the Secretary of the Interior under section 402 of 1946 Reorg. Plan No. 3, with respect to the use and disposal from lands under the jurisdiction of the Secretary of Agriculture of those mineral materials which the Secretary of Agriculture is authorized to dispose of from other lands under his jurisdiction under sections 601 to 604 and 611 to 615 of Title 30, Mineral Lands and Mining, transferred to the Secretary of Agriculture, see Pub. L. 86-509, June 11, 1960, 74 Stat. 205, set out as a note under section 2201 of this title.

Functions of Secretary of Agriculture with respect to uses of mineral deposits in lands under subdiv. (c) of this section transferred to Secretary of the Interior by 1946 Reorg. Plan No. 3, § 402, eff. July 16, 1946, 11 F.R. 7876, 60 Stat. 1099, set out in the Appendix to Title 5, Government Organization and Employees.

DELEGATION OF FUNCTIONS

Authority of the President under subdiv. (c) of this section to transfer to Federal, State, or Territorial agencies lands acquired by the Secretary of Agriculture under subdiv. (a) of this section delegated to the Administrator of general services, see section 1(14) of Ex. Ord. No. 11609, July 22, 1971, 36 F.R. 13747, set out as a note under section 301 of Title 3, The President.

SAVINGS PROVISIONS

Repeal by Pub. L. 94-579, insofar as applicable to the issuance of rights-of-way, not to be construed as terminating any valid lease, permit, patent, etc., existing on Oct. 21, 1976, see note under section 1701 of Title 43, Public Lands.

EXISTING RIGHTS-OF-WAY

Provisions of section 706(a) of Pub. L. 94-579, except as pertaining to rights-of-way, not to be construed as affecting the authority of the Secretary of Agriculture under this section, see note under section 1701 of Title 43, Public Lands.

ADJUSTMENT OF SEBASTIAN MARTIN GRANT BOUNDARY DISPUTES

Act Aug. 11, 1945, ch. 366, 59 Stat. 532, provided for the adjustment of the Sebastian Martin grant boundary disputes.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1012, 1033, 1931, 1981, 1988 of this title; title 16 sections 441h, 478a; title 30 section 601.

§ 1012. Payments to counties

As soon as practicable after the end of each calendar year, the Secretary shall pay to the county in which any land is held by the Secretary under this subchapter, 25 per centum of the net revenues received by the Secretary from the use of the land during such year. In case the land is situated in more than one county, the amount to be paid shall be divided equitably among the respective counties. Payments to counties under this section shall be made on the condition that they are used for school or road purposes, or both. This section shall not be construed to apply to amounts received from the sale of land.

(July 22, 1937, ch. 517, title III, § 33, 50 Stat. 526.)

Repeals

Section repealed by Pub. L. 94-579, title VII, § 706(a), Oct. 21, 1976, 90 Stat. 2793, effective on and after Oct. 21, 1976, insofar as applicable to the issuance of rights-of-way over, upon, under, and through the public lands and lands in the National Forest System.

SAVINGS PROVISIONS

Repeal by Pub. L. 94-579, insofar as applicable to the issuance of rights-of-way, not to be construed as terminating any valid lease, permit, patent, etc., existing on Oct. 21, 1976, see note under section 1701 of Title 43, Public Lands.

EXISTING RIGHTS-OF-WAY

Provisions of section 706(a) of Pub. L. 94-579, except as pertaining to rights-of-way, not to be construed as affecting the authority of the Secretary of Agriculture under this section, see note under section 1701 of Title 43, Public Lands.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1013a, 1033, 1931, 1981 of this title; title 16 sections 441h, 478a; title 30 section 601; title 31 section 1604.

§ 1012a. Townsites

When the Secretary of Agriculture determines that a tract of National Forest System land in Alaska or in the eleven contiguous Western States is located adjacent to or contiguous to an established community, and that transfer of such land would serve indigenous community objectives that outweigh the public objectives and values which would be served by maintaining such tract in Federal ownership, he may, upon application, set aside and designate as a townsite an area of not to exceed six hundred and forty acres of National Forest System land for any one application. After public notice, and satisfactory showing of need therefor by any county, city, or other local governmental subdivision, the Secretary may offer such area for sale to a governmental subdivision at a price not less than the fair market value thereof: *Provided, however,* That the Secretary may condition conveyances of townsites upon the enactment, maintenance, and enforcement of a valid ordinance which assures any land so conveyed will be controlled by the governmental subdivision so that use of the area will not interfere with the protection, management, and development of adjacent or contiguous National Forest System lands.

(Pub. L. 85-569, July 31, 1958, 72 Stat. 438; Pub. L. 94-579, title II, § 213, Oct. 21, 1976, 90 Stat. 2760.)

CODIFICATION

Section, which is also set out as section 478a of Title 16, Conservation, was not enacted as a part of the Bankhead-Jones Farm Tenant Act which constitutes a major part of this chapter.

AMENDMENTS

1976—Pub. L. 94-579 substituted provisions setting forth the procedures applicable to designation of townsites of tracts of National Forest System lands in Alaska or the eleven contiguous Western States, for provisions setting forth the procedures applicable to designation of townsites from any national forest lands or lands administered by the Secretary of Agriculture under the Bankhead-Jones Farm Tenant Act.

SAVINGS PROVISIONS

Amendment by Pub. L. 94-579 not to be construed as terminating any valid lease, permit, patent, etc., existing on Oct. 21, 1976, see note under section 1701 of Title 43, Public Lands.

§ 1013. Omitted

CODIFICATION

Section, act July 22, 1937, ch. 517, title III, § 34, 50 Stat. 526, related to appropriations and expired by its own limitations at end of fiscal year 1940.

§ 1013a. Benefits extended to Puerto Rico and Virgin Islands; county defined; payments to Governor or fiscal agent of county

The provisions of this subchapter shall extend to Puerto Rico and the Virgin Islands. In the case of Alaska, Puerto Rico, and the Virgin Islands, the term "county" as used in this subchapter may be the entire area, or any subdivision thereof as may be determined by the Secretary, and payments under section 1012 of this title shall be made to the Governor or to the fiscal agent of such subdivision.

(July 22, 1937, ch. 517, title III, § 35, as added Aug. 8, 1961, Pub. L. 87-128, title III, § 342, 75 Stat. 318.)

EFFECTIVE DATE

Section effective Oct. 15, 1961, by former section 300.1 of Title 6, Code of Federal Regulations, see Effective Date note under section 1921 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1931 of this title; title 25 section 492.

SUBCHAPTER IV—GENERAL PROVISIONS

§§ 1014 to 1025. Repealed. Pub. L. 87-128, title III, § 341(a), Aug. 8, 1961, 75 Stat. 318

Section 1014, act July 22, 1937, ch. 517, title IV, § 40, 50 Stat. 527, created the Farmers' Home Corporation and provided for its location, delegation of power by Secretary of Agriculture, capital stock, board of directors, personnel, quorum, compensation, expenses, selection of administrator, powers of corporation, compensation to injured employees, deposit of monies, tax exemption, records and annual report.

Section 1015, acts July 22, 1937, ch. 517, title IV, § 41, 50 Stat. 528; Aug. 14, 1946, ch. 964, § 3, 60 Stat. 1064; July 26, 1947, ch. 339, § 1(a), 61 Stat. 493; Oct. 15, 1949, ch. 695, § 6(a), 63 Stat. 881; Oct. 28, 1949, ch. 782, title XI, § 1106(a), 63 Stat. 972; Aug. 30, 1954, ch. 1076, § 1(4), 68 Stat. 966; July 31, 1956, ch. 804, title I, § 107(a), 70 Stat. 739; Aug. 1, 1956, ch. 829, § 3(a), 70 Stat. 803, related to powers or Secretary of Agriculture.

Section 1016, acts July 22, 1937, ch. 517, title IV, § 42, 50 Stat. 530; Aug. 14, 1946, ch. 964, § 3, 60 Stat. 1064; Aug. 1, 1956, ch. 829, § 3(b), 70 Stat. 804, provided for county or area committee appointments, compensation, meetings and duties.

Section 1017, acts July 22, 1937, ch. 517, title IV, § 43, 50 Stat. 530; Aug. 14, 1946, ch. 964, § 3, 60 Stat. 1064; Apr. 20, 1950, ch. 94, title II, § 205(a), 64 Stat. 73; Aug. 1, 1956, ch. 829, § 3(c), 70 Stat. 804, related to resettlement projects, their liquidation, determination of lands suitable for farm management units, report to Congress, sale of lands, disposition of public facilities and conditions thereof, disposition of surplus property and sale of properties of defense relocation corporation, etc.

Section 1018, acts July 22, 1937, ch. 517, title IV, § 44, 50 Stat. 530; Aug. 14, 1946, ch. 964, § 3, 60 Stat. 1064; Aug. 23, 1951, ch. 344, § 3, 65 Stat. 198, related to special conditions and limitations on loans.

Section 1019, acts July 22, 1937, ch. 517, title IV, § 45, 50 Stat. 530; Aug. 14, 1946, ch. 964, § 3, 60 Stat. 1064, related to transfer of lands to Secretary.

Section 1020, acts July 22, 1937, ch. 517, title IV, § 46, 50 Stat. 530; Aug. 14, 1946, ch. 964, § 3, 60 Stat. 1064; July 22, 1954, ch. 562, § 1(d), 68 Stat. 525, related to transactions with private corporations.

Section 1021, acts July 22, 1937, ch. 517, title IV, § 47, 50 Stat. 531; Aug. 14, 1946, ch. 964, § 3, 60 Stat. 1064, related to surveys and investigations.

Section 1022, acts July 22, 1937, ch. 517, title IV, § 48, 50 Stat. 531; Aug. 14, 1946, ch. 964, § 3, 60 Stat. 1064; Aug. 23, 1951, ch. 344, § 4, 65 Stat. 198, related to variable payments on obligations and discretionary scheduling of initial payment.

Section 1023, acts July 22, 1937, ch. 517, title IV, § 49, 50 Stat. 531; Aug. 14, 1946, ch. 964, § 3, 60 Stat. 1064, related to set-off.

Section 1024, acts July 22, 1937, ch. 517, title IV, § 50, 50 Stat. 531; Aug. 14, 1946, ch. 964, § 3, 60 Stat. 1064, related to taxation.

Section 1025, acts July 22, 1937, ch. 517, title IV, § 51, 50 Stat. 531; Aug. 14, 1946, ch. 964, § 3, 60 Stat. 1064; July 22, 1954, ch. 562, § 1(e), 68 Stat. 525; Aug. 1, 1956, ch. 829, § 3(d), 70 Stat. 804, related to protection of investment and security and purchase at foreclosure sale.

The subject matter of former sections 1014 to 1025 of this title is now covered by section 1921 et seq. of this title.

EFFECTIVE DATE OF REPEAL

Repeal of sections effective one hundred and twenty days after Aug. 8, 1961, or such earlier date as the provisions of chapter 50 of this title are made effective by regulations of Secretary of Agriculture, see section 341(a) of Pub. L. 87-128, set out as a note under section 1921 of this title.

Sections repealed effective Oct. 15, 1961, by former section 300.1 of Title 6, Code of Federal Regulations, except that the provisions of section 1018 of this title, as existing prior to amendment by act Aug. 14, 1946, which require mineral reservations in lands disposed of under sections 1010 to 1012 of this title shall not become effective until Dec. 7, 1961, see Effective Date note under section 1921 of this title.

§ 1026. Repealed. June 25, 1948, ch. 645, § 21, 62 Stat. 862, eff. Sept. 1, 1948

Section, acts July 22, 1937, ch. 517, title IV, § 53, 50 Stat. 532; Aug. 14, 1946, ch. 964, § 3, 60 Stat. 1064, relating to penalties, is now covered by sections 657, 658, 1006, and 1014 of Title 18, Crimes and Criminal Procedure.

§§ 1027 to 1029. Repealed. Pub. L. 87-128, title III, § 341(a), Aug. 8, 1961, 75 Stat. 318

Section 1027, acts July 22, 1937, ch. 517, title IV, § 53, 50 Stat. 532; Aug. 14, 1946, ch. 964, § 3, 60 Stat. 1064, related to fees and commissions.

Section 1028, acts July 22, 1937, ch. 517, title IV, § 54, 50 Stat. 532; Aug. 14, 1946, ch. 964, § 3, 60 Stat. 1064; July 26, 1947, ch. 339, § 1(b), 61 Stat. 493, related to application of provisions to territories.

Section 1029, acts July 22, 1937, ch. 517, title IV, § 55, 50 Stat. 533; Aug. 14, 1946, ch. 964, § 3, 60 Stat. 1064, related to separability of provisions.

The subject matter of former sections 1027 to 1029 of this title is now covered by section 1921 et seq. of this title.

EFFECTIVE DATE OF REPEAL

Repeal of sections effective one hundred and twenty days after Aug. 8, 1961, or such earlier date as the provisions of chapter 50 of this title are made effective by regulations of Secretary of Agriculture, see section 341(a) of Pub. L. 87-128, set out as a note under section 1921 of this title.

Sections repealed effective Oct. 15, 1961, by former section 300.1 of Title 6, Code of Federal Regulations, see Effective Date note under section 1921 of this title.

§ 1030. Consolidation of agricultural credit and service offices

The Secretary of Agriculture and the Governor of the Farm Credit Administration are directed, wherever practicable, to make suitable arrangements whereby all field offices under their supervision or direction extending agricultural credit or furnishing agricultural services to farmers to utilize the same or adjacent offices to the end that eligible farmers in each locality will be enabled to obtain their agricultural credit and services at one central point.

(Aug. 14, 1946, ch. 964, § 7, 60 Stat. 1079.)

CODIFICATION

Section was part of the Farmers' Home Administration Act of 1946, and was not a part of the Bankhead-Jones Farm Tenant Act which constitutes a major part of this chapter.

EXCEPTIONS FROM TRANSFER OF FUNCTIONS

Functions of the Corporations of the Department of Agriculture, the boards of directors and officers of such corporations; the Advisory Board of the Commodity Credit Corporation; and the Farm Credit Ad-

ministration or any agency, officer or entity of, under, or subject to the supervision of the said Administration were excepted from the functions of officers, agencies and employees transferred to the Secretary of Agriculture by 1953 Reorg. Plan No. 2, § 1, eff. June 4, 1953, 18 F.R. 3219, 67 Stat. 633, set out as a note under section 2201 of this title.

§ 1031. Conveyance of mineral rights with land

Any conveyance of real estate by the Government or any Government agency under this Act shall include all mineral rights.

(Aug. 14, 1946, ch. 964, § 9, 60 Stat. 1080.)

REFERENCES IN TEXT

This Act, referred to in text, means act Aug. 14, 1946. For classification of this Act to the Code, see Tables volume.

CODIFICATION

Section was part of the Farmers' Home Administration Act of 1946, and was not a part of the Bankhead-Jones Farm Tenant Act which constitutes a major part of this chapter.

TRANSFER OF FUNCTIONS

All functions of all officers, agencies and employees of the Department of Agriculture were transferred, with certain exceptions, to the Secretary of Agriculture by 1953 Reorg. Plan No. 2, § 1, eff. June 4, 1953, 18 F.R. 3219, 67 Stat. 633, set out as a note under section 2201 of this title.

CROSS REFERENCES

Sale of reserved mineral interests, see sections 1033 to 1035, 1037 to 1039 of this title.

§ 1032. Transfer of rights and duties of Reconstruction Finance Corporation arising out of rehabilitation and farm tenancy loans to Secretary of the Treasury

All rights, interests, obligations, and duties of the Reconstruction Finance Corporation arising out of loans made or authorized to be made to the Secretary of Agriculture for the purpose of making rural rehabilitation and farm tenancy loans in accordance with the Department of Agriculture Appropriation Act of 1947 and prior appropriations and loans under the Farmers Home Administration Act of 1946 are, as of the close of June 30, 1947, vested in the Secretary of the Treasury; the Reconstruction Finance Corporation is authorized and directed to transfer, as of the close of June 30, 1947, to the Secretary of the Treasury and the Secretary of the Treasury is authorized and directed to receive all loans outstanding on that date, plus accrued unpaid interest, theretofore made to the Secretary under the provisions of the Acts named above, and all notes and other evidences thereof and all obligations constituting the security therefor. The Secretary of the Treasury shall cancel notes of the Reconstruction Finance Corporation, and sums due and unpaid upon or in connection with such notes at the time of such cancellation, in an amount equal to the unpaid principal of the loans so transferred, plus accrued unpaid interest through June 30, 1947. Subsequent to June 30, 1947, the Reconstruction Finance Corporation shall make no further loans or advances to the Secretary and the Secretary of the Treasury is authorized and directed, in lieu of the Reconstruction Finance Corporation, to lend or advance to the Secretary, in accordance with the provisions of said Acts to any unobligated or unadvanced balances of the sums which the Reconstruction Finance Corporation has theretofore been authorized and directed to lend to the Secretary. For the purpose of making such loans or advances, the Secretary of the Treasury is authorized to use as a public-debt transaction the proceeds from the sale of any securities issued under the Second Liberty Bond Act, as amended, and the purposes for which securities may be issued under that Act are extended to include such loans or advances to the Secretary of Agriculture. Repayments to the Secretary of Treasury on such loans or advances shall be treated as a public-debt transaction of the United States.

(July 30, 1947, ch. 356, title I, § 1, 61 Stat. 545.)

REFERENCES IN TEXT

The Department of Agriculture Appropriation Act of 1947, referred to in text, is act June 22, 1946, ch. 445, 60 Stat. 270. For classification of this Act to the Code, see Tables volume.

The Farmers Home Administration Act of 1946, referred to in text, is act Aug. 14, 1946, ch. 964, 60 Stat. 1062. For classification of this Act to the Code, see Tables volume.

The Second Liberty Bond Act, referred to in text, is act Sept. 24, 1917, ch. 56, 40 Stat. 288, as amended. For classification of this Act to the Code, see References in Text note set out under section 774 of Title 31, Money and Finance, and Tables volume.

That Act, referred to in the text, refers to the Second Liberty Bond Act, as amended.

CODIFICATION

Section was not a part of the Bankhead-Jones Farm Tenant Act which constitutes a major part of this chapter.

ABOLITION OF RECONSTRUCTION FINANCE CORPORATION

Section 6(a) of 1957 Reorg. Plan No. 1, eff. June 30, 1957, 22 F.R. 4633, 71 Stat. 647, set out in the Appendix to Title 5, Government Organization and Employees.

§ 1033. Sale of reserved mineral interests

Notwithstanding any other provisions of law, the Secretary of Agriculture (referred to in sections 1033 to 1035 and 1037 to 1039 of this title as the "Secretary") is authorized and directed to sell, as provided in said sections, all mineral interests now owned by the United States, which have been reserved or acquired by it under any program heretofore administered by the Resettlement Administration, or the Farm Security Administration, or now administered by the Farmers Home Administration, except the program administered pursuant to sections 1010 to 1012 of this title and the program for the liquidation of labor camps pursuant to Public Law 298, Eightieth Congress.

(Sept. 6, 1950, ch. 897, § 1, 64 Stat. 769.)

REFERENCES IN TEXT

Public Law 298, Eightieth Congress, referred to in text, means act July 31, 1947, ch. 413, 61 Stat. 694. This Act was not classified to the Code.

CODIFICATION

Section was not a part of the Bankhead-Jones Farm Tenant Act which constitutes a major part of this chapter.

AUTHORIZATION OF APPROPRIATIONS

Section 8 of act Sept. 6, 1950, ch. 897, 64 Stat. 770, provided that: "There is authorized to be appropriated to the Secretary such sums as Congress may from time to time determine to be necessary to enable the Secretary to carry out the provisions of this Act [sections 1033 to 1039 of this title]."

CROSS REFERENCES

Conveyances under 1946 amendment to this chapter to include all mineral rights, see section 1031 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1035, 1037 to 1039 of this title.

§ 1034. Persons to whom mineral interests sold; conveyances

Such mineral interests shall be sold only to private persons who shall apply therefor and who at the time of application are the owners of the surface of the land covered by the application. Applicants shall establish their title to the surface of the land covered by the application to the satisfaction of the Secretary at their own expense. Conveyances of mineral interests shall be by quitclaim deed executed by the Secretary or his delegate.

(Sept. 6, 1950, ch. 897, § 2, 64 Stat. 769.)

CODIFICATION

Section was not a part of the Bankhead-Jones Farm Tenant Act which constitutes a major part of this chapter.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1033, 1035, 1037 to 1039 of this title.

§ 1035. Sale of mineral interests; consideration; transfer of unsold interests to Secretary of Interior

In areas where the Secretary determines after consultation with the Department of the Interior and competent local authorities that there is no active mineral development or leasing, the mineral interests covered by a single application shall be sold for a consideration of $1. In other areas the mineral interests shall be sold at the fair market value thereof as determined by the Secretary after taking into consideration such appraisals as he deems necessary or appropriate. Area determinations made by the Secretary pursuant to this section may be revised from time to time and the consideration to be obtained for the mineral interests in connection with any particular tract of land shall be determined by the rule applicable to the area in which the tract is located at the time of the application therefor: *Provided*, That, in the event any mineral interests covered by sections 1033 to 1039 of this title are not sold as provided herein pursuant to application filed within seven years from September 6, 1950, or within seven years from the date of acquisition of the mineral interests of the United States, whichever date is later, the Secretary shall forthwith transfer title to such mineral interests, with the exception of those which were a part of or derived from the assets transferred pursuant to transfer agreements with State rural rehabilitation corporations, to the Secretary of the Interior to be administered under the mineral laws of the United States.

(Sept. 6, 1950, ch. 897, § 3, 64 Stat. 769.)

CODIFICATION

Section was not a part of the Bankhead-Jones Farm Tenant Act which constitutes a major part of this chapter.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1033, 1037 to 1039 of this title.

§ 1036. Repealed. Pub. L. 87–353, § 3(m), Oct. 4, 1961, 75 Stat. 774

Section, act Sept. 6, 1950, ch. 897, § 4, 64 Stat. 769, related to authorization of Federal Farm Mortgage Corporation to sell and convey its mineral interests.

§ 1037. Sale of reserved mineral interests; disposition of proceeds

All proceeds from sales made under sections 1033 to 1039 of this title of mineral interests described in section 1033 of this title shall be covered into the Treasury of the United States as miscellaneous receipts, except that the proceeds from sales of mineral interests which were a part of or derived from the assets transferred pursuant to the transfer agreements with State rural rehabilitation corporations shall be credited to the appropriate corporation account.

(Sept. 6, 1950, ch. 897, § 5, 64 Stat. 770.)

CODIFICATION

Section was not a part of the Bankhead-Jones Farm Tenant Act which constitutes a major part of this chapter.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1033, 1035, 1038, 1039 of this title.

§ 1038. Regulations; delegations of authority

The Secretary may make such rules and regulations and such delegations of authority as he may deem necessary to carry out the provisions of sections 1033 to 1039 of this title.

(Sept. 6, 1950, ch. 897, § 6, 64 Stat. 770.)

CODIFICATION

Section was not a part of the Bankhead-Jones Farm Tenant Act which constitutes a major part of this chapter.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1033, 1035, 1037, 1039 of this title.

§ 1039. Time for filing purchase applications

No application for the purchase of mineral interests under sections 1033 to 1039 of this title shall be filed until ninety days after September 6, 1950.

(Sept. 6, 1950, ch. 897, § 7, 64 Stat. 770.)

CODIFICATION

Section was not a part of the Bankhead-Jones Farm Tenant Act which constitutes a major part of this chapter.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1033, 1035, 1037, 1038 of this title.

§ 1040. Farmers' Home Administration funds account

When authorized by appropriation or other law, funds of the Farmers' Home Administration available for administrative expenses may be placed in a single account.

(Aug. 3, 1956, ch. 950, § 9(b), 70 Stat. 1034.)

CODIFICATION

Section was part of the Department of Agriculture Organic Act of 1956, and was not a part of the Bankhead-Jones Farm Tenant Act which constitutes a major part of this chapter.

CHAPTER 34—SUGAR PRODUCTION AND CONTROL

§ 1100. Omitted

CODIFICATION

Section, act Aug. 8, 1947, ch. 519, § 1, 61 Stat. 922, provided that this chapter may be cited as the Sugar Act of 1948, and expired on Dec. 31, 1974.

A prior section, act Sept. 1, 1937, ch. 898, § 1, 50 Stat. 903, provided that this chapter may be cited as the Sugar Act of 1937, and expired on Dec. 31, 1947.

TERMINATION DATE

Section 412, formerly § 411, of act Aug. 8, 1947, ch. 519, 61 Stat. 933, as amended by act Sept. 1, 1951, ch. 379, § 5, 65 Stat. 320, renumbered and amended by act May 29, 1956, ch. 342, §§ 17, 18, 70 Stat. 221; July 6, 1960, Pub. L. 86-592, § 1, 74 Stat. 330; Mar. 31, 1961, Pub. L. 87-15, § 1, 75 Stat. 40; July 13, 1962, Pub. L. 87-535, § 16, 76 Stat. 166; Nov. 8, 1965, Pub. L. 89-331, § 12(5), 79 Stat. 1280; Oct. 14, 1971, Pub. L. 92-138, § 18(a), 85 Stat. 390, provided that:

"The powers vested in the Secretary under this Act [this chapter] shall terminate on December 31, 1974, or on March 31 of the year of termination of the tax imposed by section 4501(a) of the Internal Revenue Code of 1954 [section 4501(a) of Title 26] whichever is the earlier date, except that the Secretary shall have power to make payments under title III [subchapter III of this chapter]—

"(1) under programs applicable to the crop year 1974 and previous crop years, if the powers vested in the Secretary otherwise terminate on December 31, 1974, or

"(2) under programs applicable to the crop years preceding the calendar year in which the tax imposed under section 4501(a) of the Internal Revenue Code of 1954 terminates, if the powers vested in the Secretary otherwise terminate before December 31, 1974."

SUBCHAPTER I—DEFINITIONS

§ 1101. Omitted

CODIFICATION

Section, acts Aug. 8, 1947, ch. 519, title I, § 101, 61 Stat. 922; May 29, 1956, ch. 342, §§ 1-4, 70 Stat. 217; June 25, 1959, Pub. L. 86-70, § 4, 73 Stat. 141; July 6, 1960, Pub. L. 86-592, § 4, 74 Stat. 331; Oct. 14, 1971, Pub. L. 92-138, § 2, 85 Stat. 379, related to definitions and expired on Dec. 31, 1974.

A prior section, act Sept. 1, 1937, ch. 898, title I, § 101, 50 Stat. 903, relating to similar subject matter, expired on Dec. 31, 1947.

SUBCHAPTER II—QUOTA PROVISIONS

§§ 1111 to 1122. Omitted

CODIFICATION

Section 1111, acts Aug. 8, 1947, ch. 519, title II, § 201, 61 Stat. 923; May 29, 1956, ch. 342, § 5, 70 Stat. 217; July 13, 1962, Pub. L. 87-535, § 2, 76 Stat. 156; Nov. 8, 1965, Pub. L. 89-331, § 2, 79 Stat. 1271; Oct. 14, 1971, Pub. L. 92-138, § 3, 85 Stat. 379, related to the annual consumption estimate in the continental United States, the price of objective, and definitions of parity index and wholesale price index and expired on Dec. 31, 1974.

A prior section 1111, acts Sept. 1, 1938, ch. 898, title II, § 201, 50 Stat. 904; Oct. 10, 1940, ch. 839, § 2, 54 Stat. 1093, relating to similar subject matter, expired on Dec. 31, 1947.

Section 1112, acts Aug. 8, 1947, ch. 519, title II, § 202, 61 Stat. 924; Sept. 1, 1951, ch. 379, § 1, 65 Stat. 318; May 29, 1956, ch. 342, §§ 6 to 8, 70 Stat. 217 to 219; July 13, 1962, Pub. L. 87-535, § 3, 76 Stat. 156; July 19, 1962, Pub. L. 87-539, § 2(a), (b), 76 Stat. 169; Nov. 8, 1965, Pub. L. 89-331, § 3, 79 Stat. 1271; Oct. 14, 1971, Pub. L. 92-138, § 4, 85 Stat. 380, related to the establishment or revision of quotas and expired on Dec. 31, 1974.

A prior section 1112, act Sept. 1, 1937, ch. 898, title II, § 202, 50 Stat. 905, relating to similar subject matter, expired on Dec. 31, 1947.

Section 1113, acts Aug. 8, 1947, ch. 519, title II, § 203, 61 Stat. 925; July 6, 1960, Pub. L. 86-592, § 4, 74 Stat. 331, related to the consumption estimate in Hawaii and Puerto Rico and to quotas and expired on Dec. 31, 1974.

A prior section 1113, act Sept. 1, 1937, ch. 898, title II, § 203, 50 Stat. 905, relating to similar subject matter, expired on Dec. 31, 1947.

Section 1114, acts Aug. 8, 1947, ch. 519, title II, § 204, 61 Stat. 925; Sept. 1, 1951, ch. 379, § 2, 65 Stat. 319; May 29, 1956, ch. 342, § 9, 70 Stat. 219; July 13, 1962, Pub. L. 87-535, § 4, 76 Stat. 160; July 19, 1962, Pub. L. 87-539, § 2(c), 76 Stat. 169; Nov. 8, 1965, Pub. L. 89-331, § 4, 79 Stat. 1275; Oct. 14, 1971, Pub. L. 92-138, § 5, 85 Stat. 383, related to the revision of proration upon productive deficiency of quota area and expired on Dec. 31, 1974.

A prior section 1114, act Sept. 1, 1937, ch. 898, title II, § 204, 50 Stat. 905, relating to similar subject matter, expired on Dec. 31, 1947.

Section 1115, acts Aug. 8, 1947, ch. 519, title II, § 205, 61 Stat. 926; May 29, 1956, ch. 342, § 10, 70 Stat. 219; Aug. 28, 1958, Pub. L. 85-791, § 28, 72 Stat. 950; July 6, 1960, Pub. L. 86-592, § 4, 74 Stat. 331; July 13. 1962, Pub. L. 87-535, § 5, 76 Stat. 160; Nov. 8, 1965, Pub. L. 89-331, § 5, 79 Stat. 1276; Oct. 14, 1971, Pub. L. 92-138, § 6, 85 Stat. 384, related to allotments of quotas or prorations and expired on Dec. 31, 1974.

A prior section 1115, act Sept. 1, 1937, ch. 898, title II, § 205, 50 Stat. 906, relating to similar subject matter, expired on Dec. 31, 1947.

Section 1116, acts Aug. 8, 1947, ch. 519, title II, § 206, 61 Stat. 927; July 13, 1962, Pub. L. 87-535, § 6, 76 Stat. 161; Nov. 8, 1965, Pub. L. 89-331, § 6, 79 Stat. 1277; Oct. 14, 1971, Pub. L. 92-138, § 7, 85 Stat. 384, related to products and mixtures containing sugar and expired on Dec. 31, 1974.

A prior section 1116, act Sept. 1, 1937, ch. 898, title II, § 206, 50 Stat. 907, related to temporary sugar quotas until sugar quotas for calendar year 1937 could be established, which was to be within 60 days after enactment of section.

Section 1117, acts Aug. 8, 1947, ch. 519, title II, § 207, 61 Stat. 927; Sept. 1, 1951, ch. 379, § 3, 65 Stat. 319; May 29, 1956, ch. 342, §§ 11, 12, 70 Stat. 219, 220; July 13, 1962, Pub. L. 87-535, § 7, 76 Stat. 161; July 19, 1962, Pub. L. 87-539, § 2(d), 76 Stat. 170; Nov. 8, 1965, Pub. L. 89-331, § 7, 79 Stat. 1277; Oct. 14, 1971, Pub. L. 92-138, § 8, 85 Stat. 385, related to the amount of quota to be filled by direct-consumption sugar and expired on Dec. 31, 1974.

A prior section 1117, acts Sept. 1, 1937, ch. 898, title II, § 207, 50 Stat. 908; Oct. 15, 1940, ch. 887, §§ 4, 5, 54 Stat. 1178, relating to similar subject matter, expired on Dec. 31, 1947.

Section 1118, acts Aug. 8, 1947, ch. 519, title II, § 208, 61 Stat. 928; Sept. 1, 1951, ch. 379, § 4, 65 Stat. 319; July 13, 1962, Pub. L. 87-535, § 8, 76 Stat. 162, related to liquid sugar foreign quotas and expired on Dec. 31, 1974.

A prior section 1118, act Sept. 1, 1937, ch. 898, title II, § 208, 50 Stat. 908, relating to similar subject matter, expired on Dec. 31, 1947.

Section 1119, acts Aug. 8, 1947, ch. 519, title II, § 209, 61 Stat. 928; July 6, 1960, Pub. L. 86-592, § 4, 74 Stat. 331; July 13, 1962, Pub. L. 87-535, § 9, 76 Stat. 162; Nov. 8, 1965, Pub. L. 89-331, § 8, 79 Stat. 1278; Oct. 14, 1971, Pub. L. 92-138, § 9, 85 Stat. 386, related to prohibited acts and expired on Dec. 31, 1974.

A prior section 1119, act Sept. 1, 1937, ch. 898, title II, § 209, 50 Stat. 908, relating to similar subject matter, expired on Dec. 31, 1947.

Section 1120, act Aug. 8, 1947, ch. 519, title II, § 210, 61 Stat. 928, related to terminology of determinations and expired on Dec. 31, 1974.

A prior section 1120, act Sept. 1, 1937, ch. 898, title II, § 210, 50 Stat. 908, relating to similar subject matter, expired on Dec. 31, 1947.

Section 1121, acts Aug. 8, 1947, ch. 519, title II, § 211, 61 Stat. 928; July 13, 1962, Pub. L. 87-535, § 10, 76 Stat. 162; Oct. 14, 1971, Pub. L. 92-138, § 10, 85 Stat. 386, related to credit against quota and expired on Dec. 31, 1974.

A prior section 1121, act Sept. 1, 1937, ch. 898, title II, § 211, 50 Stat. 909, relating to similar subject matter, expired on Dec. 31, 1947.

Section 1122, acts Aug. 8, 1947, ch. 519, title II, § 212, 61 Stat. 929; July 13, 1962, Pub. L. 87-535, § 11, 76 Stat. 163; Nov. 8, 1965, Pub. L. 89-331, § 9(a), 79 Stat. 1278; Oct. 14, 1971, Pub. L. 92-138, § 11, 85 Stat. 386, related to exceptions to quota provisions and expired on Dec. 31, 1974.

A prior section 1122, act Sept. 1, 1937, ch. 898, title II, § 212, 50 Stat. 909, relating to similar subject matter, expired on Dec. 31, 1947.

§ 1123. Repealed. Pub. L. 89-331, § 10, Nov. 8, 1965, 79 Stat. 1278

Section, act Aug. 8, 1947, ch. 519, title II, § 213, as added July 13, 1962, Pub. L. 87-535, § 12, 76 Stat. 163, and amended July 19, 1962, Pub. L. 87-539, § 2(e), 76 Stat. 170, made provision for import fees and set the amount and basis for such fees.

EFFECTIVE DATE OF REPEAL

Repeal of section effective Jan. 1, 1965, pursuant to section 14 of Pub. L. 89-331.

SUBCHAPTER III—CONDITIONAL-PAYMENT PROVISIONS

§§ 1131 to 1137. Omitted

CODIFICATION

Section 1131, acts Aug. 8, 1947, ch. 519, title III, § 301, 61 Stat. 929; May 29, 1956, ch. 342, § 13, 70 Stat. 220; July 13, 1962, Pub. L. 87-535, § 13(a), 76 Stat. 163, related to conditions of production and expired on Dec. 31, 1974.

A prior section 1131, acts Sept. 1, 1937, ch. 898, title III, § 301, 50 Stat. 909; June 25, 1940, ch. 423, 54 Stat. 571; Dec. 26, 1941, ch. 638, § 2, 55 Stat. 872, relating to similar subject matter, expired on Dec. 31, 1947.

Section 1132, acts Aug. 8, 1947, ch. 519, title III, § 302, 61 Stat. 930; May 29, 1956, ch. 342, § 14, 70 Stat. 220; July 13, 1962, Pub. L. 87-535, § 13(b), (c), 76 Stat. 163; Nov. 8, 1965 Pub. L. 89-331, § 11, 79 Stat. 1278; Oct. 14, 1971, Pub. L. 92-138, § 12, 85 Stat. 386, related to quantity of sugar and time for payments and expired on Dec. 31, 1974.

A prior section 1132, act Sept. 1, 1937, ch. 898, title II, § 302, 50 Stat. 910, relating to similar subject matter, expired on Dec. 31, 1947.

Section 1133, acts Aug. 8, 1947, ch. 519, title III, § 303, 61 Stat. 930; Oct. 14, 1971, Pub. L. 92-138, § 13, 85 Stat. 388, related to acreage abandonment and crop deficiency and expired on Dec. 31, 1974.

A prior section 1133, act Sept. 1, 1937, ch. 898, title III, § 303, 50 Stat. 911, relating to similar subject matter, expired on Dec. 31, 1947.

Section 1134, act Aug. 8, 1947, ch. 519, title III, § 304, 61 Stat. 931, related to computation of payments and recipients thereof and expired on Dec. 31, 1974.

A prior section 1134, acts Sept. 1, 1937, ch. 898, title III, § 304, 50 Stat. 911; Dec. 26, 1941, ch. 638, § 3, 55 Stat. 873, relating to similar subject matter, expired on Dec. 31, 1947.

Section 1135, act Aug. 8, 1947, ch. 519, title III, § 305, 61 Stat. 932, related to cooperation with the Secretary by certain agencies and expired on Dec. 31, 1974.

A prior section 1135, act Sept. 1, 1937, ch. 898, title III, § 305, 50 Stat. 912, relating to similar subject matter, expired on Dec. 31, 1947.

Section 1136, act Aug. 8, 1947, ch. 519, title III, § 306, 61 Stat. 932, related to the finality of the Secretary's determinations and expired on Dec. 31, 1974.

A prior section 1136, act Sept. 1, 1937, ch. 898, title III, § 306, 50 Stat. 912, relating to similar subject matter, expired on Dec. 31, 1947.

Section 1137, acts Aug. 8, 1947, ch. 519, title III, § 307, 61 Stat. 932; July 6, 1960, Pub. L. 86-592, § 4, 74 Stat. 331; Oct. 14, 1971, Pub. L. 92-138, § 14, 85 Stat. 388, related to territorial application of former subchapter III and expired on Dec. 31, 1974.

A prior section 1137, acts Sept. 1, 1937, ch. 898, title III, § 307, 50 Stat. 912; Dec. 26, 1941, ch. 638, §4(a), 55 Stat. 873, relating to similar subject matter, expired on Dec. 31, 1947.

SUBCHAPTER IV—ADMINISTRATIVE PROVISIONS

§§ 1151 to 1161. Omitted

CODIFICATION

Section 1151, act Aug. 8, 1947, ch. 519, title IV, § 401, 61 Stat. 932, related to expenditures by the Secretary and expired Dec. 31, 1974.

A prior section 1151, acts Sept. 1, 1937, ch. 898, title IV, § 401, 50 Stat. 912, relating to definitions with respect to excise taxes on sugar, expired on Dec. 31, 1947, was covered by section 3507 of title 26, Internal Revenue Code, 1939, and by former section 4502 of Title 26, Internal Revenue Code, 1954.

Section 1152, act Aug. 8, 1947, ch. 519, title IV, § 402, 61 Stat. 932; Nov. 8, 1965, Pub. L. 89-331, § 12(1), 79 Stat. 1279, related to the authorization of appropriations and to the availability of funds and expired on Dec. 31, 1974.

A prior section 1152, act Sept. 1, 1937, ch. 898, title IV, § 402, 50 Stat. 913, relating to the tax on the manufacture of sugar, expired on Dec. 31, 1947, was covered by sections 3490, 3491(a), 3492 of Title 26, Internal Revenue Code, 1939, and by former sections 4501 to 4503 of Title 26, Internal Revenue Code, 1954.

Section 1153, acts Aug. 8, 1947, ch. 519, title IV, § 403, 61 Stat. 932; Oct. 14, 1971, Pub. L. 92-138, § 15, 85 Stat. 388, related to rules and regulations, violations, publication of determinations, and independent weighmasters and expired on Dec. 31, 1974.

A prior section 1153, act Sept. 1, 1937, ch. 898, title IV, § 403, 50 Stat. 913, relating to an import compensating tax, expired on Dec. 31, 1947, was covered by sections 3500, 3501 of Title 26, Internal Revenue Code, 1939, and by former sections 4501 and 4504 of Title 26, Internal Revenue Code, 1954.

Section 1154, acts Aug. 8, 1947, ch. 519, title IV, § 404, 61 Stat. 932; June 25, 1948, ch. 646, § 1, 62 Stat. 909; July 13, 1962, Pub. L. 87-535, § 144, 76 Stat. 166; Oct. 14, 1971, Pub. L. 92-138, § 16, 85 Stat. 389, related to court jurisdiction and expired on Dec. 31, 1974.

A prior section 1154, act Sept. 1, 1937, ch. 898, title IV, § 404, 50 Stat. 914, relating to the exportation of manufactured sugar and the use of manufactured sugar in livestock feed or for the distillation of alcohol, expired on Dec. 31, 1947, was covered by sections 3493, 3494 of Title 26, Internal Revenue Code, 1939, and is now covered by sections 6418 and 6511 of Title 26, Internal Revenue Code, 1954.

Section 1155, acts Aug. 8, 1947, ch. 519, title IV, § 405, 61 Stat. 933; May 29, 1956, ch. 342, § 15, 70 Stat. 220, related to forfeitures and expired on Dec. 31, 1974.

A prior section 1155, act Sept. 1, 1937, ch. 898, title IV, § 405, 50 Stat. 914, relating to the collection of taxes, expired on Dec. 31, 1947, was covered by sections 3491(b), (c), 3495 to 3497 of Title 26, Internal Revenue Code, 1939, and is now covered generally by former section 4501 and sections 6091 and 6151 of Title 26, Internal Revenue Code, 1954.

Section 1156, act Aug. 8, 1947, ch. 519, title IV, § 406, 61 Stat. 933, related to the duty to furnish information and the penalty for noncompliance and expired on Dec. 31, 1974.

A prior section 1156, act Sept. 1, 1937, ch. 898, title IV, § 406, 50 Stat. 914, relating to the effective date of said title IV, expired on Dec. 31, 1947.

Section 1157, acts Aug. 8, 1947, ch. 519, title IV, § 407, 61 Stat. 933; May 29, 1956, ch. 342, § 16, 70 Stat. 220, related to the prohibition of and penalty for sugar investments by officials and expired on Dec. 31, 1974. Similar penalty provisions are now covered by section 7240 of Title 26, Internal Revenue Code.

Section 1158, acts Aug. 8, 1947, ch. 519, title IV, § 408, 61 Stat. 933; July 6, 1960, Pub. L. 86-592, § 3, 74 Stat. 330; Mar. 31, 1961, Pub. L. 87-15, § 3, 75 Stat. 40; July 13, 1962, Pub. L. 87-535, § 15, 76 Stat. 166; Nov. 8, 1965, Pub. L. 89-331, § 512(2) to (4), 79 Stat. 1279, 1280; Oct. 14, 1971, Pub. L. 92-138, § 17, 85 Stat. 389, related to the suspension of quota and authorization provisions and expired on Dec. 31, 1974.

Section 1159, act Aug. 8, 1947, ch. 519, title IV, § 409, 61 Stat. 933, related to surveys and investigations by the Secretary and to producer-processor and producer-labor contracts and expired on Dec. 31, 1974.

Section 1160, act Aug. 8, 1947, ch. 519, title IV, § 410, 61 Stat. 933, related to general conditions and factors affecting accomplishment of purposes of this chapter and the publication of information and expired on Dec. 31, 1974.

Section 1161, act Aug. 8, 1947, ch. 519, title IV, § 411 added May 29, 1956, ch. 342, § 17, 70 Stat. 221, related to regulations to carry out international agreements restricting sugar importations and expired on Dec. 31, 1974.

SUBCHAPTER V—GENERAL PROVISIONS

§ 1171. Repealed. Pub. L. 89-554, § 8(a), Sept. 6, 1966, 80 Stat. 649

Section, act Sept. 1, 1937, ch. 898, title V, § 501, 50 Stat. 915, authorized the Secretary of Agriculture to appoint and fix the compensation of employees and make expenditures necessary to carry out the Sugar Act of 1937, which expired on Dec. 31, 1947.

§§ 1172 to 1183. Omitted

CODIFICATION

Section 1172, act Sept. 1, 1937, ch. 898, title V, § 502, 50 Stat. 915, related to the annual appropriation and the availability of funds, expired on Dec. 31, 1947, and was covered by section 402 of the Sugar Act of 1948, which was set out as former section 1152 of this title.

Section 1173, acts Sept. 1, 1937, ch. 898, title V, § 503, 50 Stat. 915; Oct. 15, 1940, ch. 887, § 3, 54 Stat. 1178; Dec. 26, 1941, ch. 638, § 6, 55 Stat. 873; June 20, 1944, ch. 266, § 2, 58 Stat. 284, related to the appropriation of funds for transfer to the Commonwealth of the Philippine Islands for use in economic adjustment and expired Dec. 31, 1947.

Section 1174, act Sept. 1, 1937, ch. 898, title V, § 504, 50 Stat. 915, related to rules and regulations and fines for violations, expired on Dec. 31, 1947, and was covered by section 403 of the Sugar Act of 1948, which was set out as former section 1153 of this title.

Section 1175, act Sept. 1, 1937, ch. 898, title V, § 505, 50 Stat. 915, related to court jurisdiction, expired on Dec. 31, 1947, and was covered by section 404 of the Sugar Act of 1948, which was set out as former section 1154 of this title.

Section 1176, act Sept. 1, 1937, ch. 898, title V, § 506, 50 Stat. 915, related to forfeitures, expired on Dec. 31, 1947, and was covered by section 405 of the Sugar Act of 1948, which was set out as former section 1155 of this title.

Section 1177, act Sept. 1, 1937, ch. 898, title V, § 507, 50 Stat. 916, related to the duty to furnish information and to the penalty for noncompliance, expired on Dec. 31, 1947, and was covered by section 406 of the Sugar Act of 1948, which was set out as former section 1156 of this title.

Section 1178, act Sept. 1, 1937, ch. 898, title V, § 508, 50 Stat. 916, related to the prohibition of and penalty for sugar investments by officials, expired on Dec. 31, 1947, and was covered by section 407 of the Sugar Act of 1948, which was set out as former section 1157 of this title. Similar penalty provisions are now covered by section 7240 of Title 26, Internal Revenue Code.

Section 1179, act Sept. 1, 1937, ch. 898, title V, § 509, 50 Stat. 916, related to Presidential powers during an emergency, expired on Dec. 31, 1947, and was covered by section 408 of the Sugar Act of 1948, which was set out as former section 1158 of this title.

Section 1180, act Sept. 1, 1937, ch. 898, title V, § 510, 50 Stat. 916, specified the laws which would become inapplicable to sugar upon enactment of the Sugar Act of 1937, and expired on Dec. 31, 1947.

Section 1181, act Sept. 1, 1937, ch. 898, title V, § 511, 50 Stat. 916, related to surveys and investigations of producer-processor and producer-laborer contracts, expired on Dec. 31, 1947, and was covered by section 409 of the Sugar Act of 1948, which was set out as former section 1159 of this title.

Section 1182, act Sept. 1, 1937, ch. 898, title V, § 512, 50 Stat. 916, related to general conditions and factors affecting accomplishment of purposes of the Sugar Act of 1937, expired on Dec. 31, 1947, and was covered by section 410 of the Sugar Act of 1948, which was set out as former section 1160 of this title.

Section 1183, acts Sept. 1, 1937, ch. 898, title V, § 513, 50 Stat. 916; Oct. 15, 1940, ch. 887, § 1, 54 Stat. 1178; Dec. 26, 1941, ch. 638, § 1, 55 Stat. 872; June 20, 1944, ch. 266, § 1, 58 Stat. 283; July 27, 1946, ch. 685, § 1, 60 Stat. 706, specified that the powers of the Secretary under the Sugar Act of 1937 were to terminate on Dec. 31, 1947. Similar provisions as to termination under the Sugar Act of 1948 are contained in section 412 of act Aug. 8, 1947, ch. 519, 61 Stat. 933, set out as a note under former section 1100 of this title.

CHAPTER 35—AGRICULTURAL ADJUSTMENT ACT OF 1938

GENERAL PROVISIONS

Sec.
1281. Short title.
1282. Declaration of policy.
1282a. Emergency supply of agricultural products
(a) Establishment of prices to insure orderly, adequate and steady supply of products.
(b) Adjustments in maximum price of products subject to any price control or freeze order or regulation to increase supply.
(c) Definition of "agricultural products".
(d) Implementation of policies to encourage full production in periods of short supply at fair and reasonable prices.

SUBCHAPTER I—ADJUSTMENT IN FREIGHT RATES, NEW USES AND MARKETS, AND DISPOSITION OF SURPLUSES

Sec.
1291. Adjustments in freight rates.
(a) Complaints by Secretary of Agriculture; notice of hearings.
(b) Secretary as party to proceedings.
(c) Utilization of records, services, etc., of Department of Agriculture.
(d) Cooperation with complaining farm associations.
1292. New uses and markets for commodities.
(a) Regional research laboratories.
(b) Acquisition of land for laboratories; donations.
(c) Cooperation with governmental agencies, associations, etc.
(d) Appropriation for purposes of subsection (a).
(e) Repealed.
(f) Appropriation to Secretary of Commerce
(g) Duty of Secretary.
1293. Transferred.

SUBCHAPTER II—LOANS, PARITY PAYMENTS, CONSUMER SAFEGUARDS, MARKETING QUOTAS, AND MARKETING CERTIFICATES

PART A—DEFINITIONS, LOANS, PARITY PAYMENTS, AND CONSUMER SAFEGUARDS

1301. Definitions.
(a) General definitions.
(b) Definitions applicable to one or more commodities.
(c) Use of Federal statistics.
(d) Exclusion of stocks of certain commodities.
1301a. References to parity prices, etc., in other laws after January 1, 1950.
1301b, 1302. Repealed.
1303. Parity payments.
1304. Consumer safeguards.
1305. Transfer of acreage allotments or feed grain bases on public lands upon request of State agencies.
1306. Projected yields; determination; base period.
1307. Limitation on payments under wheat, feed grains, and cotton programs for 1974 through 1977 crops.

PART B—MARKETING QUOTAS

SUBPART I—MARKETING QUOTAS—TOBACCO

1311. Legislative findings.
1312. National marketing quota.
(a) Proclamation of quota.
(b) Announcement of amount of quota.
(c) Referendum on quotas.
1313. Apportionment of national marketing quota.
(a) Apportionment among States.
(b) Allotment of quota among producing farms.
(c) Allotment to previous nonproducing farms and small farms.
(d) Transfer of farm marketing quotas.
(e) Quota for 1938; minimum State allotments.
(f) Increase of 1938 quota.
(g) Conversion of national marketing quota into national acreage allotment.
(h) Repealed.
(i) Increase of marketing quotas and acreage allotments to meet demand.
(j) Tobacco acreage allotments for 1956, 1957, and 1958.
(j) [1] Old farm tobacco acreage allotment.
Sec.
1314. Penalties.
(a) Persons liable.
(b) Collection and deposit.
1314a. Repealed.
1314b. Leases of tobacco acreage allotments or quotas.
(a) Conditions for permission from Secretary; burley tobacco exception.
(b) Term of years; terms and conditions.
(c) Filing with county committees; determination of compliance with requirements; calculation of normal yield for transfer.
(d) Allotments for other years unaffected; inclusion of amount in transferors' plantings; referendum voting rights.
(e) Limitation on amount of acreage allotment.
(f) Regulations.
(g) Georgia and South Carolina disaster areas; emergency allotment leases and transfers for 1973.
(h) North Carolina disaster areas; emergency allotment leases and transfers for 1974.
1314c. Acreage-poundage quotas.
(a) Definitions.
(b) National marketing quota, acreage allotment and average yield goal for Flue-cured tobacco; referendum.
(c) Tobacco having marketing quotas on acreage basis; determination of Secretary of program on acreage-poundage basis; announcement of national marketing quota, acreage allotment and average yield goal; referendum.
(d) Proclamation of national marketing quota for three years following last year of three years of acreage-poundage quotas; referendum; notice of farm marketing quota to farm operators.
(e) Nonestablishment of farm acreage allotment or farm yield for farms without tobacco production for five years; reserve; "new farms" defined; acreage allotment and farm yield basis of new farms; farm yield limitation.
(f) Acreage reduction penalties applicable to acreage-poundage programs; farm marketing quota reductions; filing false reports; increases or decreases in acreage allotments and farm yields for other farms of owner displaced by agency acquisition of farms; leases of acreage allotments and farm marketing quotas; ratification of transfers of acreage allotments.
(g) Marketing penalties.
(h) Burley tobacco; acreage-poundage basis: farm acreage allotment and farm marketing quota, adjustments for overmarketing or undermarketing, reductions for violations; acreage and quota additional to national acreage allotment and national marketing quota; acreage basis: acreage allotment, amendment of clause (1) and proviso of section 1315.

[1] So in original. Probably should be subsec. (k).

Sec.
(i) Consultations with industry representatives respecting a program for each kind of tobacco, studies of Flue-cured tobacco acreage-poundage program, report and recommendations to congressional committees, upon referendum-approval of Flue-cured tobacco acreage-poundage program.
1314d. Fire-cured, dark air-cured, and Virginia sun-cured tobacco.
(a) Sale or lease of acreage allotments and acreage-poundage quotas.
(b) Conditions for transfers.
(c) Transfer of acreage history and marketing quota.
(d) Five-year restriction on new farm allotments or quotas.
(e) Allotment adjustment.
(f) Lease term.
(g) Acreage transfer maximums.
(h) Future allotments; referendum voting eligibility.
(i) Land utilization agreements; payment adjustments.
(j) Rules and regulations.
1314e. Burley tobacco poundage quotas.
(a) Proclamation; referendum.
(b) Proclamation for second and third years; referendum.
(c) Amount of national marketing quota, determination; national reserve, establishment.
(d) Farm yields; determination; limitation.
(e) Farm marketing quotas; preliminary quotas, determination, limitation; succeeding years, quota computation, limitations, increase and reduction of quotas; new farms, limitation.
(f) Reductions for false information.
(g) Leases and transfers of farm quotas; limitations.
(h) Loss of quotas through underplanting.
(i) Marketing penalties.
(j) Regulations.
1314f. Nonquota tobacco.
1315. Burley tobacco acreage allotments.
1316. Lease and transfer of allotments subsequent to 1965.

SUBPART II—ACREAGE ALLOTMENTS—CORN

1321. Legislative finding of effect on interstate and foreign commerce and necessity of regulation.
1322 to 1325. Repealed.
1326. Adjustment of farm marketing quotas.
1327. Proclamation of commercial corn-producing area.
1328. Acreage allotment; proclamations.
1329. Apportionment of acreage allotment.
1329a. Discontinuance of acreage allotments on corn.
1330. Supplemental provisions relating to wheat marketing quotas; marketing penalty for cotton and rice; crop loans on cotton, wheat, rice, tobacco, and peanuts.

SUBPART III—MARKETING QUOTAS—WHEAT

1331. Legislative finding of effect on interstate and foreign commerce and necessity of regulation.
1332. National marketing quota.
(a) Proclamation; duration of program.
(b) Amount; minimum.
(c) National emergencies or material increase in demand; investigation; increase or termination.
1333. National acreage allotment.

Sec.
1334. Apportionment of national acreage allotment.
(a) Apportionment among States; special acreage reserve.
(b) Apportionment among counties.
(c) Apportionment among farms; overplanted allotments; reductions; notice.
(d) Repealed.
(e) Increase in acreage allotments and marketing quotas for class II durum wheat.
(f) Voluntary surrender of acreage allotment.
(g) Plantings in excess of allotments or where no allotment is established.
(h) Omitted.
(i) Increase in acreage allotments for any kind of wheat in short supply; storage reduction and land-use provisions inapplicable to such wheat.
(j) Increased durum wheat acreage allotments to Tulelake area, California, for 1970 and subsequent years; factors determinative; effect of increased allotments on marketing allocations and diversion payments.
(k) Transfer of farm wheat acreage allotments in case of natural disasters.
1334a. Omitted.
1334a-1. Summer fallow farms; upper limit on required set aside acreage for 1971 through 1977 wheat, feed grain, and cotton crops.
1334b. Designation of States outside commercial wheat-producing areas.
1335. Small-farm exemption; small-farm base acreage; election; acreage allotment; land-use provisions; price support; wheat marketing certificates.
1336. Referendum.
1337. Repealed.
1338. Transfer of quotas.
1339. Land use.
(a) Diverted acreage; producers eligible for certificates; conservation uses; amount; annual identity; grazing.
(b) Payment program for 1964 through 1970 crops; terms and conditions; amount; additional diverted acreage; conservation and soil-conserving uses; adjustment; knowledge of exceeding acreage allotment; acreage allotment not exceeded by delivery to Secretary of farm marketing excess or storage in accordance with regulations to avoid or postpone payment of penalty or by farms exempt from marketing quota; new farms ineligible for payments; sharing and medium of payments.
(c) Adjustment of payments.
(d) Advance payments.
(e) Diverted acreage used for production of certain crops; rate of payment; limitation on rate.
(f) Additional terms and conditions.
(g) Regulations.
(h) Commodity Credit Corporation funds and authorization of appropriations for payments and administrative expenses.
1339a. Diversion programs; good faith performance; payments.
1339b. Wheat diversion programs; credits in establishment of State, county and farm acreage allotments for wheat.
1339c. Feed grains diversion programs for 1964 and subsequent years; feed grain acreage considered wheat acreage and wheat acreage considered feed grain acreage.

Sec.
1339d. Hay production on set-aside or diverted acreage; storage; emergency use; loans.
1340. Supplemental provisions relating to wheat marketing quotas; marketing penalty for rice; crop loans on cotton, wheat, rice, tobacco, and peanuts.

SUBPART IV—MARKETING QUOTAS—COTTON

1341. Legislative findings.
1342. National marketing quota; proclamation; amount; date of proclamation.
1342a. National cotton production goal.
1343. Referendum.
1344. Apportionment of national acreage allotments.
(a) Basis.
(b) Apportionment among States for year 1953 and subsequent years; adjustment; national acreage reserve.
(c) Apportionment among States for years 1950 and 1951; computation and adjustment.
(d) Apportionment for year 1952; adjustment.
(e) Apportionment among counties; reservation of acreage; additional acreage for establishing minimum farm allotments.
(f) Apportionment among farms.
(g) Law and conditions governing establishment of acreage allotments and yields.
(h) Repealed.
(i) Excess planting; old and new farm allotment.
(j) Availability of records for inspection.
(k) Minimum allotments to States.
(l) Administration of law governing war crops.
(m) Acreage allotments, 1954; increases; apportionments; limitations; unallotted farm acreage; reapportionment of surrendered acreage; extra long staple cotton; reserve acreage.
(n) Transfer of farm cotton acreage allotments in case of natural disasters; eligibility for allotment.
1344a. Exclusion of 1949 acreage in computation of future allotments.
1344b. Sale, lease, or transfer of cotton acreage allotments.
(a) Approval of temporary transfers.
(b) Requisite conditions for transfer of acreage allotments.
(c) Extent of estate transferred.
(d) Period of ineligibility of land for new allotment.
(e) Transfer of allotments established under minimum allotment provisions.
(f) Rules and regulations.
(g) Adjustment upon transfer of land covered by conservation reserve contract.
(h) Exchange of cotton acreage allotments for rice acreage allotments.
(i) Applicability to cotton restricted to upland cotton.
1345. Farm marketing quotas; farm marketing excess.
1346. Penalties.
1347. Long staple cotton.
(a) Exemptions.
(b) National marketing quotas.
(c) Minimum small farm allotments; penalty rate.
(d) Exemption from penalty rate.
(e) Applicability of exemptions.
(f) Sale or lease of acreage allotment; transfer of allotment; rules and regulations.
(g) Increase of allotment; reduction of soil conserving base.
1348. Payments in kind to equalize cost of cotton to domestic and foreign users; rules and regulations; termination date; persons eligible; amount; terms and conditions; raw cotton in inventory.
1349. Export market acreage.
(a) Supplementary allotments for 1964 and 1965; acreage limitation; apportionment among States and farms; "export market acreage" on any farm; farm acreage allotment for farms with export acreage; additional allotment; establishment of future allotments without regard to export acreage; exclusion of extra-long-staple cotton and farms receiving additional price support for 1964 and 1965.
(b) Bond, other undertaking, and lieu payments for exportation without subsidy and within specified period; terms and conditions; liquidated damages; farm acreage allotment upon noncompliance with conditions; remissions to CCC for defraying costs of encouraging export sales of cotton.
1350. National base acreage allotment.
(a) Establishment.
(b) Apportionment to States.
(c) Apportionment to counties.
(d) Adjustment of apportionment bases for counties.
(e) Apportionment to farms.
(f) Surrender of farm base acreage allotments.
(g) Compliance with set-aside requirements.
(h) Transfer of farm base acreage allotments not planted because of natural disaster or conditions beyond control of producer.
1350a. Annual report to Congress.

SUBPART V—MARKETING QUOTAS—RICE

1351. Legislative findings.
1352. National acreage allotment and allocation.
(a) Acreage allotments, 1976 and 1977.
(b) Apportionment to farms and producers; basis; adjustment; reservation of acreage.
(c) Reduction or loss of farm or producer allotments; other acreage considered rice acreage.
(d) Transfer of acreage allotments not planted because of natural disaster or conditions beyond control of persons involved in production of rice; farm yield for determination of amount of payments and loans.
(e) Sale, lease, or transfer of rice acreage allotments; apportionment among heirs or devisees of producer on basis of past production; dissolution of partnership producer; reapportionment of surrendered acreage.
(f) Excess acreage.
1353. Apportionment of national acreage allotment.
(a) Apportionment among States.
(b) Apportionment among producers.
(c) Apportionment among counties.
(d) Acres and farms unaffected.
(e) Reapportionment of voluntarily surrendered allotments.

Sec.
(f) Reapportionment of allotments determined on basis of past production, upon death of producer; withdrawal from production in favor of family; permanent withdrawal; dissolution of partnership producer.
(g) Transfer of allotment due to natural disaster; released acreage for acreage history credits; eligibility of transferring farm for allotment during base year period.
1354. Marketing quotas.
(a) Proclamation.
(b) Referendum.
1355. Amount of farm marketing quota.
1356. Penalties and storage.
(a) Rate of penalty on farm marketing excess.
(b) Computation and adjustment of penalty.
(c) Interest liability.
(d) Lien on crop.
(e) Avoidance or postponement of penalty by storage or other disposition.
(f) Penalty for depletion in amount stored.
(g) Reduction allowances on stored crops.
(h) Termination of marketing quotas applicable to previous crops.

SUBPART VI—MARKETING QUOTAS—PEANUTS

1357. Legislative findings.
1358. National marketing quota.
(a) Proclamation; amount.
(b) Referendum.
(c) Apportionment of national acreage allotment.
(d) Farm acreage allotments.
(e) County acreage allotments.
(f) New farm allotments.
(g) Release and reapportionment of farm-acreage allotments.
(h) Repealed.
(i) Production on farms with no allotments.
(j) Transfer of acreage allotment.
1358a. Transfer of peanut acreage allotments.
(a) Determination by Secretary.
(b) Conditions upon transfer; adjustment of allotment.
(c) Transfer of acreage history and marketing quota; transfer by lease.
(d) Eligibility of transferred land for new allotment.
(e) Duration of lease; terms and conditions.
(f) Lease of part of acreage allotment; determination of future allotments; eligibility for referendum.
(g) Regulations; limitations on transfers.
(h) Adjustment of rates for land utilization agreements.
1359. Marketing penalties.

PART C—ADMINISTRATIVE PROVISIONS

SUBPART I—PUBLICATION AND REVIEW OF QUOTAS

1361. Application of subpart.
1362. Publication of marketing quota; mailing of allotment notice.
1363. Review of quota; review committee.
1364. Compensation of review committee.
1365. Institution of proceeding for court review of committee findings.
1366. Court review.
1367. Stay of proceedings and exclusive jurisdiction.
1368. Effect of increase on other quotas.

SUBPART II—ADJUSTMENT OF QUOTAS AND ENFORCEMENT

Sec.
1371. General adjustment of quotas.
(a) Investigation and adjustment to maintain normal supply.
(b) Adjustment because of emergency or export demand.
(c) Increase of farm quota on increase of national quota.
1372. Payment, collection, and refund of penalties.
1373. Reports and records.
(a) Persons reporting.
(b) Proof of acreage yield.
(c) Data as confidential.
1374. Measurement of farms and report of plantings; remeasurement.
1375. Regulations.
1376. Court jurisdiction; duties of United States attorneys; remedies and penalties as additional.
1377. Preservation of unused acreage allotments.
1378. Transfer of acreage allotments ensuing from agency acquisition of farm lands.
(a) Allotment pool.
(b) Circumstances precluding application of provisions.
(c) Time of displacement determining application of provisions.
(d) Farm base acreage allotment for upland cotton included within term "allotment".
(e) Domestic allotment for wheat included within term "allotment".
(f) Burley tobacco marketing allotment and acreage as meaning marketing quota and poundage.
1379. Reconstitution of farms.

PART D—WHEAT MARKETING ALLOCATION

1379a. Legislative findings.
1379b. Avoidance of excessive total supply of wheat or other commodities.
(a) Issuance of marketing certificates.
(b) Availability of marketing certificates.
(c) Set-aside acreage.
(d) Sharing of payments.
(e) Noncompliance with program.
(f) Advancements on estimated value of marketing certificates.
(g) Regulations.
(h) Representation of marketing certificates and transfers.
(i) Commodity Credit Corporation.
1379c. Farm acreage allotment; apportionment; acreage adjustments; reduction of allotments.
1379d. Marketing restrictions.
(a) Transfers of certificates; purchases by Commodity Credit Corporation.
(b) Processor and exporter acquisition of domestic and export certificates; international trade, expansion; refunds or credits for certificates; exemptions from requirements.
(c) Undertaking to secure marketing of commodity without certificate.
(d) "Food products" defined; exemption of flour second clears.
1379e. Assistance in purchase and sale of marketing certificates; regulations; administrative expenses; interest.
1379f. Conversion factors.
1379g. Authority to facilitate transition.
1379h. Applicability of provisions to designated persons; reports and records; examinations by the Secretary.
1379i. Penalties.
(a) Forfeitures; amount; civil action.
(b) Misdemeanors; punishment.
(c) Forfeiture of right to receive certificates; payment of face value.
(d) Felonies; punishment.

Sec.
1379j. Regulations.

PART E—RICE CERTIFICATES

1380a. Legislative findings.
1380b. Effective date and termination of program.
1380c. Primary market quota for rice.
1380d. Apportionment of primary market quota.
1380e. Review of primary market quota.
1380f. Price support to cooperators.
1380g. Certificates.
(a) Issuance.
(b) Share of landlord, tenants, and sharecroppers.
(c) Applicability of other laws.
(d) Issuance and sale to persons engaged in processing of rough rice or importing of processed rice.
(e) Value; redemption.
1380h. Inventory adjustment payments; appropriations.
1380i. Rice set-aside.
1380j. Exemptions.
1380k. Processing restrictions.
(a) Acquisition of certificates.
(b) Applicability to processing in Puerto Rico or Hawaii of rough rice.
(c) Payments to exporters.
1380*l*. Import restrictions.
1380m. Regulations.
1380n. Penalties.
1380*o*. Reports and records.
1380p. Definitions.

PART F—MISCELLANEOUS PROVISIONS AND APPROPRIATIONS

SUBPART I—MISCELLANEOUS

1381 to 1382. Omitted.
1383. Insurance of cotton; reconcentration.
1383a. Written consent for reconcentration of cotton.
1384. Repealed.
1385. Finality of payments and loans; substitution of beneficiaries.
1386. Exemption from laws prohibiting interest of members of Congress in contracts.
1387. Photographic reproductions and maps.
1388. Utilization of local agencies.
1389. Personnel.
1390. Separability of provisions.

SUBPART II—APPROPRIATIONS AND ADMINISTRATIVE EXPENSES

1391. Authorization of appropriations; loans from Commodity Credit Corporation.
1392. Administrative expenses; posting names and compensation of local employees.
1393. Allotment of appropriations.

SUBCHAPTER III—COTTON POOL PARTICIPATION TRUST CERTIFICATES

1401 to 1407. Omitted.

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in sections 1428, 1442, 1444a, 1446c, 1745 of this title.

GENERAL PROVISIONS

§ 1281. Short title

This chapter may be cited as the "Agricultural Adjustment Act of 1938".

(Feb. 16, 1938, ch. 30, § 1, 52 Stat. 31.)

SHORT TITLE OF 1973 AMENDMENT

Section 5 of Pub. L. 93-86 provided that: "This Act [which enacted sections 428b, 612c-2, 612c-3, 1282a, 1427a, 1434, 1441a, 1736e, and 2026 of this title and sections 1501 to 1510 of Title 16, amended this section and sections 450j, 450*l*, 608c, 1301, 1305, 1306, 1334a-1, 1342a, 1344b, 1350, 1374, 1379b, 1379c, 1379g, 1428, 1444, 1445a, 1446, 1446a, 1703, 1736c, 1782, 1787, 1925, 1926, 1932, 2012, 2014, 2016, 2019, 2025, 2119, 2651, and 2654 of this title, repealed section 1628 of this title, enacted provisions set out as notes under sections 608c, 612c, 624, 1301, 1305, 1306, 1344b, 1350, 1379b, 1379c, 1379d, 1441, 1444, 1445a, and 1446 of this title, section 142 of Title 13, and section 71 of Title 45, and amended provisions set out as notes under sections 135b, 608c, 1305, 1330 to 1336, 1338, 1339, 1342, 1343, 1344, 1344b, 1345, 1346, 1377 to 1379, 1379b, 1379c, 1385, 1427, 1428, 1441, 1445a, 1446, and 1446d of this title] may be cited as the 'Agriculture and Consumer Protection Act of 1973'."

SHORT TITLE OF 1970 AMENDMENT

Section 1 of Pub. L. 91-524 provided: "That this Act [which, as amended by section 1 of Pub. L. 93-86, enacted sections 428b, 612c-2, 612c-3, 1282a, 1307, 1334a-1, 1339d, 1342a, 1350a, 1427a, 1434, 1441a, 1736e, 1787, 1930, and 2119 of this title, sections 590q-2 and 1501 to 1510 of Title 16, Conservation, and section 3122 of Title 42, The Public Health and Welfare, amended this section and sections 450j, 450*l*, 608c, 1301, 1306, 1344b, 1350, 1374, 1378, 1379, 1379b, 1379c, 1379d, 1379e, 1379g, 1385, 1427, 1428, 1444, 1444a, 1444b, 1445a, 1446, 1446a, 1703, 1704, 1736, 1736c, 1782, 1787, 1925, 1926, 1932, 2651, and 2654 of this title and section 590p of Title 16, Conservation, and enacted provisions set out as notes under this section and sections 135b, 608c, 624, 1301, 1306, 1330, 1331, 1332, 1333, 1334, 1335, 1336, 1338, 1339, 1342, 1342a, 1343, 1344, 1344b, 1345, 1346, 1350, 1359, 1377, 1378, 1379, 1379b to 1379j, 1385, 1427, 1428, 1441, 1444, 1444b, 1445, 1445a, 1446, and 1446d of this title, section 142 of Title 13, Census, and section 71 of Title 45 Railroads] may be cited as the 'Agricultural Act of 1970'."

SHORT TITLE OF 1964 AMENDMENT

Section 1 of Pub. L. 88-297 provided: "That this Act [which enacted sections 1348 to 1350, amended sections 1301, 1334, 1336, 1339, 1344, 1376, 1377, 1379b, 1379c, 1379d, 1385, 1421, 1427, 1444, 1445a, enacted provisions set out as notes under sections 1332 and 1379b, and amended provisions set out as a note under section 1441 of this title] may be cited as the 'Agricultural Act of 1964'."

SHORT TITLE OF 1958 AMENDMENT

Section 1 of Pub. L. 85-835 provided that: "This Act [adding sections 1344(f)(7),(8), 1344 note, 1378, 1431a, 1441 note, 1443, 1444, 1853 note, amending sections 1342, 1344(a), (b), (f)(1), (6), 1347(b), 1353(c)(6), 1423, 1425, 1427, 1441(a), 1446(b), 1446a(a), (b), 1782 to 1784, and repealing sections 1301b, 1313(h), 1334(d), 1344(h), 1353(f) and 1358(h) of this title] may be cited as the 'Agricultural Act of 1958' ".

SHORT TITLE OF 1948 AMENDMENT

Congress in enacting act July 3, 1948, which is classified to sections 602, 608c, 612c, 624, 672, 1282 note, 1301a, former section 1302, sections 1312, 1328, 1333, 1335, 1336, 1355, 1359, former section 1381, and section 1385 of this title, section 713a-8 note of Title 15, Commerce and Trade, and section 590h of Title 16, Conservation, provided by provisions preceding section 1 of said act July 3, 1948, that said sections should be popularly known as the "Agricultural Act of 1948".

§ 1282. Declaration of policy

It is declared to be the policy of Congress to continue the Soil Conservation and Domestic Allotment Act, as amended [16 U.S.C. 590a et seq.], for the purpose of conserving national resources, preventing the wasteful use of soil fertility, and of preserving, maintaining, and rebuilding the farm and ranch land resources in the national public interest; to accomplish

these purposes through the encouragement of soil-building and soil-conserving crops and practices; to assist in the marketing of agricultural commodities for domestic consumption and for export; and to regulate interstate and foreign commerce in cotton, wheat, corn, tobacco, and rice to the extent necessary to provide an orderly, adequate, and balanced flow of such commodities in interstate and foreign commerce through storage of reserve supplies, loans, marketing quotas, assisting farmers to obtain insofar as practicable, parity prices for such commodities and parity of income, and assisting consumers to obtain an adequate and steady supply of such commodities at fair prices.

(Feb. 16, 1938, ch. 30, § 2, 52 Stat. 31.)

REFERENCES IN TEXT

The Soil Conservation and Domestic Allotment Act, as amended, referred to in the text, is act Apr. 27, 1935, ch. 85, 49 Stat. 163, as amended, which is classified generally to chapter 3B (§ 590a et seq.) of Title 16, Conservation. For complete classification of this Act to the Code, see Tables volume.

TRANSFER OF FUNCTIONS

Functions of the Agricultural Adjustment Administration were transferred to the Secretary of Agriculture by 1946 Reorg. Plan No. 3, § 501, eff. July 16, 1946, 11 F.R. 7877, 60 Stat. 1100. See note under section 610 of this title.

Soil Conservation Service and Agricultural Adjustment Administration consolidated with other agencies into Agricultural Conservation and Adjustment Administration for duration of war, see Ex. Ord. No. 9069, set out in note under section 601 of Appendix to Title 50, War and National Defense.

The functions of Soil Conservation Service in Department of Agriculture with respect to soil and moisture conservation operations conducted on lands under jurisdiction of Department of Interior were transferred to Department of Interior, to be administered under direction and supervision of Secretary of Interior through such agency or agencies in Department of Interior as Secretary shall designate, by 1940 Reorg. Plan No. IV, § 6, eff. June 30, 1940, set out in the Appendix to Title 5, Government Organization and Employees. See, also, sections 13 to 15 of said plan for provisions relating to transfer of functions of department heads, records, property, personnel, and funds.

CONGRESSIONAL DECLARATION OF POLICY UNDER AGRICULTURAL ACT OF 1961

Section 2 of Pub. L. 87-128, Aug. 8, 1961, 75 Stat. 294, provided that:

"In order more fully and effectively to improve, maintain, and protect the prices and incomes of farmers, to enlarge rural purchasing power, to achieve a better balance between supplies of agricultural commodities and the requirements of consumers therefor, to preserve and strengthen the structure of agriculture, and to revitalize and stabilize the overall economy at reasonable costs to the Government, it is hereby declared to be the policy of Congress to—

"(a) afford farmers the opportunity to achieve parity of income with other economic groups by providing them with the means to develop and strengthen their bargaining power in the Nation's economy;

"(b) encourage a commodity-by-commodity approach in the solution of farm problems and provide the means for meeting varied and changing conditions peculiar to each commodity;

"(c) expand foreign trade in agricultural commodities with friendly nations, as defined in section 107 of Public Law 480, 83d Congress, as amended (7 U.S.C. 1707), and in no manner either subsidize the export, sell, or make available any subsidized agricultural commodity to any nations other than such friendly nations and thus make full use of our agricultural abundance;

"(d) utilize more effectively our agricultural productive capacity to improve the diets of the Nation's needy persons;

"(e) recognize the importance of the family farm as an efficient unit of production and as an economic base for towns and cities in rural areas and encourage, promote, and strengthen this form of farm enterprise;

"(f) facilitate and improve credit services to farmers by revising, expanding, and clarifying the laws relating to agricultural credit;

"(g) assure consumers of a continuous, adequate, and stable supply of food and fiber at fair and reasonable prices;

"(h) reduce the cost of farm programs, by preventing the accumulation of surpluses; and

"(i) use surplus farm commodities on hand as fully as practicable as an incentive to reduce production as may be necessary to bring supplies on hand and firm demand in balance."

CONGRESSIONAL DECLARATION OF POLICY FOR YEAR 1949

Section 1(d) of act July 3, 1948, ch. 827, title I, 62 Stat. 1248, provided that: "It is hereby declared to be the policy of the Congress that the lending and purchase operations of the Department of Agriculture (other than those referred to in subsections (a), (b), and (c) hereof [subsections (a) and (b) are set out as notes under this section and subsection (c) is set out as a note under section 713a-8 of Title 15]) shall be carried out until January 1, 1950, so as to bring the price and income of the producers of other agricultural commodities not covered by subsections (a), (b), and (c) to a fair parity relationship with the commodities included under subsections (a), (b), and (c), to the extent that funds for such operations are available after taking into account the operations with respect to the commodities covered by subsections (a), (b), and (c). In carrying out the provisions of this subsection the Secretary of Agriculture shall have the authority to require compliance with production goals and marketing regulations as a condition to eligibility of producers for price support."

STUDY OF PARITY INCOME POSITION OF FARMERS; REPORT TO CONGRESS BY JUNE 30, 1966

Section 705 of Pub. L. 89-321, title VII, Nov. 3, 1965, 79 Stat. 1210, directed the Secretary of Agriculture to make a study of the parity income position of farmers, and report the results of such study to the Congress not later than June 30, 1966.

PRICE STABILIZATION DURING YEAR 1950

Section 1(a) and (b) of act July 3, 1948, ch. 827, title I, 62 Stat. 1247, as amended June 10, 1949, ch. 191, 63 Stat. 169, authorized the Secretary of Agriculture through any instrumentality or agency within or under the direction of the Department of Agriculture, by loans, purchases, or other operations to support prices received by producers of cotton, wheat, corn, tobacco, rice, and peanuts marketed before June 30, 1950 (September 30, 1950, in the case of Maryland and the cigar-leaf types of tobacco), if producers had not disapproved marketing quotas for such commodity for the marketing year beginning in the calendar year in which the crop is harvested.

Section 2 of act July 3, 1948, ch. 827, title I, 62 Stat. 1248, authorized the Secretary, from any funds available to the Department of Agriculture or any agency operating under its direction for price support operations or for the disposal of agricultural commodities, to use such sums as may be necessary to carry out the provisions of section 1 of the Act.

Section 6 of act July 3, 1948, ch. 827, title I, 62 Stat. 1250, provided in part that sections 1 and 2 of the act were to become effective Jan. 1, 1949.

§ 1282a. Emergency supply of agricultural products

(a) Establishment of prices to insure orderly, adequate and steady supply of products

Notwithstanding any other provision of law, the Secretary of Agriculture shall assist farmers, processors, and distributors in obtaining such prices for agricultural products that an orderly, adequate and steady supply of such products will exist for the consumers of this nation.

(b) Adjustments in maximum price of products subject to any price control or freeze order or regulation to increase supply

The President shall make appropriate adjustments in the maximum price which may be charged under the provisions of Executive Order 11723 (dated June 13, 1973) or any subsequent Executive Order for any agricultural products (at any point in the distribution chain) as to which the Secretary of Agriculture certifies to the President that the supply of the product will be reduced to unacceptably low levels as a result of any price control or freeze order or regulation and that alternative means for increasing the supply are not available.

(c) Definition of "agricultural products"

Under this section, the term "agricultural products" shall include meat, poultry, vegetables, fruits and all other agricultural commodities in raw or processed form, except forestry products or fish or fishery products.

(d) Implementation of policies to encourage full production in periods of short supply at fair and reasonable prices

The Secretary of Agriculture is directed to implement policies under this Act which are designed to encourage American farmers to produce to their full capabilities during periods of short supply to assure American consumers with an adequate supply of food and fiber at fair and reasonable prices.

(Pub. L. 91-524, title VIII, § 815, as added Pub. L. 93-86, § 1(27)(B), Aug. 10, 1973, 87 Stat. 240.)

REFERENCES IN TEXT

Executive Order 11723 (dated June 13, 1973), referred to in subsec. (b), was revoked by Ex. Ord. No. 11788, June 18, 1974, 39 F.R. 22113, set out as a note under section 1904 of Title 12, Banks and Banking.

This Act, referred to in subsec. (d), is the Agricultural Act of 1970. For classification of this Act in the Code, see Short Title note set out under section 1281 of this title.

CODIFICATION

Section comprises a part of the Agricultural Act of 1970 as added by the Agriculture and Consumer Protection Act of 1973, and not a part of the Agricultural Adjustment Act of 1938 which comprises this chapter.

SUBCHAPTER I—ADJUSTMENT IN FREIGHT RATES, NEW USES AND MARKETS, AND DISPOSITION OF SURPLUSES

§ 1291. Adjustments in freight rates

(a) Complaints by Secretary of Agriculture; notice of hearings

The Secretary of Agriculture is authorized to make complaint to the Interstate Commerce Commission with respect to rates, charges, tariffs, and practices relating to the transportation of farm products, and to prosecute the same before the Commission. Before hearing or disposing of any complaint (filed by any person other than the Secretary) with respect to rates, charges, tariffs, and practices relating to the transportation of farm products, the Commission shall cause the Secretary to be notified, and, upon application by the Secretary, shall permit the Secretary to appear and be heard.

(b) Secretary as party to proceedings

If such rate, charge, tariff, or practice complained of is one affecting the public interest, upon application by the Secretary, the Commission shall make the Secretary a party to the proceeding. In such case the Secretary shall have the rights of a party before the Commission and the rights of a party to invoke and pursue original and appellate judicial proceedings involving the Commission's determination. The liability of the Secretary in any such case shall extend only to liability for court costs.

(c) Utilization of records, services, etc., of Department of Agriculture

For the purposes of this section, the Interstate Commerce Commission is authorized to avail itself of the cooperation, records, services, and facilities of the Department of Agriculture.

(d) Cooperation with complaining farm associations

The Secretary is authorized to cooperate with and assist cooperative associations of farmers making complaint to the Interstate Commerce Commission with respect to rates, charges, tariffs, and practices relating to the transportation of farm products.

(Feb. 16, 1938, ch. 30, title II, § 201, 52 Stat. 36.)

§ 1292. New uses and markets for commodities

(a) Regional research laboratories

The Secretary is authorized and directed to establish, equip, and maintain four regional research laboratories, one in each major farm producing area, and, at such laboratories, to conduct researches into and to develop new scientific, chemical, and technical uses and new and extended markets and outlets for farm commodities and products and byproducts thereof. Such research and development shall be devoted primarily to those farm commodities in which there are regular or seasonal surpluses, and their products and byproducts.

(b) Acquisition of land for laboratories; donations

For the purposes of subsection (a) of this section, the Secretary is authorized to acquire land and interests therein, and to accept in the name of the United States donations of any property, real or personal, to any laboratory established pursuant to this section, and to utilize voluntary or uncompensated services at such laboratories. Donations to any one of such laboratories shall not be available for use by any other of such laboratories.

(c) Cooperation with governmental agencies, associations, etc.

In carrying out the purposes of subsection (a) of this section, the Secretary is authorized and directed to cooperate with other departments or agencies of the Federal Government, States, State agricultural experiment stations, and other State agencies and institutions, counties,

municipalities, business or other organizations, corporations, associations, universities, scientific societies, and individuals, upon such terms and conditions as he may prescribe.

(d) Appropriation for purposes of subsection (a)

To carry out the purposes of subsection (a) of this section, the Secretary is authorized to utilize in each fiscal year, beginning with the fiscal year beginning July 1, 1938, a sum not to exceed $4,000,000 of the funds appropriated pursuant to section 1391 of this title, or section 590o of title 16, for such fiscal year. The Secretary shall allocate one-fourth of such sum annually to each of the four laboratories established pursuant to this section.

(e) Repealed. Aug. 30, 1954, ch. 1076, § 1(3), 68 Stat. 966

(f) Appropriation to Secretary of Commerce

There is allocated to the Secretary of Commerce for each fiscal year, beginning with the fiscal year beginning July 1, 1938, out of funds appropriated for such fiscal year pursuant to section 1391 of this title, or section 590o of title 16 the sum of $1,000,000 to be expended for the promotion of the sale of farm commodities and products thereof in such manner as he shall direct. Of the sum allocated under this subsection to the Secretary of Commerce for the fiscal year beginning July 1, 1938, $100,000 shall be devoted to making a survey and investigation of the cause or causes of the reduction in exports of agricultural commodities from the United States, in order to ascertain methods by which the sales in foreign countries of basic agricultural commodities produced in the United States may be increased.

(g) Duty of Secretary

It shall be the duty of the Secretary to use available funds to stimulate and widen the use of all farm commodities in the United States and to increase in every practical way the flow of such commodities and the products thereof into the markets of the world.

(Feb. 16, 1938, ch. 30, title II, § 202, 52 Stat. 37; Aug. 30, 1954, ch. 1076, § 1(3), 68 Stat. 966.)

AMENDMENTS

1954—Former subsec. (e), which required reports to Congress of the activities of, expenditures by, and donations to, the laboratories established pursuant to subsec. (a), was repealed by act Aug. 30, 1954.

WHEAT RESEARCH AND PROMOTION ACT

Pub. L. 91-430, Sept. 26, 1970, 84 Stat. 885, provided: "[Section 1. Short Title]. That this Act shall be known as the 'Wheat Research and Promotion Act.'

"SEC. 2 [Contract authority; sale of export marketing certificates and pro rata share of such certificates for financing agreements; rules and regulations]. The Secretary of Agriculture is authorized to enter into agreements with organizations of wheat growers, farm organizations, and such other organizations as he may deem appropriate to carry out a program of research and promotion designed to expand domestic and foreign markets and increase utilization for United States wheat and to carry out any other such program which he deems will benefit wheat producers in the United States. Notwithstanding any other provision of law, the Secretary shall use the total net proceeds from the sale of export marketing certificates during the marketing year ending June 30, 1969, to finance the cost of such agreements, except that he shall provide for the issuance of a pro rata share of export marketing certificates for such marketing year to any producer eligible therefor under section 379c of the Agricultural Adjustment Act of 1938, as amended [section 1379c of this title], who applies for such certificates not later than ninety days after the date of enactment of this Act [Sept. 26, 1970]. The Secretary is authorized to prescribe such rules and regulations as may be necessary to carry out the provisions of this Act."

CROSS REFERENCES

Agricultural research generally, see sections 361 et seq. and 427 of this title.

Development of new uses for cotton, see section 724 of this title.

Marketing of agricultural products and control or eradication of plant and animal diseases and pests, cooperation with State agencies in administration and enforcement of laws relating to, see section 450 of this title.

§ 1293. Transferred

CODIFICATION

Section, act Feb. 16, 1938, ch. 30, title II, § 204, 52 Stat. 38, providing for annual report of Federal Surplus Commodities Corporation, is transferred to section 713c-1 of Title 15, Commerce and Trade.

SUBCHAPTER II—LOANS, PARITY PAYMENTS, CONSUMER SAFEGUARDS, MARKETING QUOTAS, AND MARKETING CERTIFICATES

AMENDMENTS

1956—Act May 28, 1956, ch. 327, title V, § 501(1), 70 Stat. 208, included marketing certificates in subchapter heading.

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in section 1428 of this title.

PART A—DEFINITIONS, LOANS, PARITY PAYMENTS, AND CONSUMER SAFEGUARDS

§ 1301. Definitions

(a) General definitions

For the purposes of this subchapter and the declaration of policy—

(1)(A) The "parity price" for any agricultural commodity, as of any date, shall be determined by multiplying the adjusted base price of such commodity as of such date by the parity index as of such date.

(B) The "adjusted base price" of any agricultural commodity, as of any date, shall be (i) the average of the prices received by farmers for such commodity, at such times as the Secretary may select during each year of the ten-year period ending on the 31st of December last before such date, or during each marketing season beginning in such period if the Secretary determines use of a calendar year basis to be impracticable, divided by (ii) the ratio of the general level of prices received by farmers for agricultural commodities during such period to the general level of prices received by farmers for agricultural commodities during the period January 1910 to December 1914, inclusive. As used in this subparagraph, the term "prices" shall include wartime subsidy payments made to producers under programs designed to maintain maximum prices established under the Emergency Price Control Act of 1942.

(C) The "parity index", as of any date, shall be the ratio of (i) the general level of prices for articles and services that farmers buy, wages paid hired farm labor, interest on farm indebtedness secured by farm real estate, and taxes on farm real estate, for the calendar month ending last before such date to (ii) the general level of such prices, wages, rates, and taxes during the period January 1910 to December 1914, inclusive.

(D) The prices and indices provided for herein, and the data used in computing them, shall be determined by the Secretary, whose determination shall be final.

(E) Notwithstanding the provisions of subparagraph (A) of this paragraph, the transitional parity price for any agricultural commodity, computed as provided in this subparagraph, shall be used as the parity price for such commodity until such date after January 1, 1950, as such transitional parity price may be lower than the parity price, computed as provided in subparagraph (A) of this paragraph, for such commodity. The transitional parity price for any agricultural commodity as of any date shall be—

(i) its parity price determined in the manner used prior to the effective date of the Agricultural Act of 1948, less

(ii) 5 per centum of the parity price so determined multiplied by the number of full calendar years (not counting 1956 in the case of basic agricultural commodities) which, as of such date, have elapsed after January 1, 1949, in the case of non-basic agricultural commodities, and after January 1, 1955, in the case of the basic agricultural commodities.

(F) Notwithstanding the provisions of subparagraphs (A) and (E) of this paragraph, if the parity price for any agricultural commodity, computed as provided in subparagraphs (A) and (E) of this paragraph, appears to be seriously out of line with the parity prices of other agricultural commodities, the Secretary may, and upon the request of a substantial number of interested producers shall, hold public hearings to determine the proper relationship between the parity price of such commodity and the parity prices of other agricultural commodities. Within sixty days after commencing such hearing the Secretary shall complete such hearing, proclaim his findings as to whether the facts require a revision of the method of computing the parity price of such commodity, and put into effect any revision so found to be required.

(G) Notwithstanding the foregoing provisions of this section, the parity price for any basic agricultural commodity, as of any date during the six-year period beginning January 1, 1950, shall not be less than its parity price computed in the manner used prior to October 31, 1949.

(2) "Parity", as applied to income, shall be that gross income from agriculture which will provide the farm operator and his family with a standard of living equivalent to those afforded persons dependent upon other gainful occupation. "Parity" as applied to income from any agricultural commodity for any year, shall be that gross income which bears the same relationship to parity income from agriculture for such year as the average gross income from such commodity for the preceding ten calendar years bears to the average gross income from agriculture for such ten calendar years.

(3) The term "interstate and foreign commerce" means sale, marketing, trade, and traffic between any State or Territory or the District of Columbia or Puerto Rico, and any place outside thereof; or between points within the same State or Territory or within the District of Columbia or Puerto Rico, through any place outside thereof; or within any Territory or within the District of Columbia or Puerto Rico.

(4) The term "affect interstate and foreign commerce" means, among other things, in such commerce, or to burden or obstruct such commerce or the free and orderly flow thereof; or to create or tend to create a surplus of any agricultural commodity which burdens or obstructs such commerce or the free and orderly flow thereof.

(5) The term "United States" means the several States and Territories and the District of Columbia and Puerto Rico.

(6) The term "State" includes a Territory and the District of Columbia and Puerto Rico.

(7) The term "Secretary" means the Secretary of Agriculture, and the term "Department" means the Department of Agriculture.

(8) The term "person" means an individual, partnership, firm, joint-stock company, corporation, association, trust, estate, or any agency of a State.

(9) The term "corn" means field corn.

(b) Definitions applicable to one or more commodities

For the purposes of this subchapter—

(1)(A) "Actual production" as applied to any acreage of corn means the number of bushels of corn which the local committee determines would be harvested as grain from such acreage if all the corn on such acreage were so harvested. In case of a disagreement between the farmer and the local committee as to the actual production of the acreage of corn on the farm, or in case the local committee determines that such actual production is substantially below normal, the local committee, in accordance with regulations of the Secretary, shall weigh representative samples of ear corn taken from the acreage involved, make proper deductions for moisture content, and determine the actual production of such acreage on the basis of such samples.

(B) "Actual production" of any number of acres of cotton, rice or peanuts on a farm means the actual average yield for the farm times such number of acres.

(2) "Bushel" means in the case of ear corn that amount of ear corn, including not to exceed 15½ per centum of moisture content, which weighs seventy pounds, and in the case of shelled corn, means that amount of shelled corn including not to exceed 15½ per centum of moisture content, which weighs fifty-six pounds.

(3)(A) "Carry-over", in the case of corn, rice, and peanuts for any marketing year

shall be the quantity of the commodity on hand in the United States at the beginning of such marketing year, not including any quantity which was produced in the United States during the calendar year then current.

(B) "Carry-over" of cotton for any marketing year shall be the quantity of cotton on hand in the United States at the beginning of such marketing year, not including any part of the crop which was produced in the United States during the calendar year then current.

(C) "Carry-over" of tobacco for any marketing year shall be the quantity of such tobacco on hand in the United States at the beginning of such marketing year (or on January 1 of such marketing year in the case of Maryland tobacco), which was produced in the United States prior to the beginning of the calendar year in which such marketing year begins, except that in the case of cigar-filler and cigar-binder tobacco the quantity of type 46 on hand and theretofore produced in the United States during such calendar year shall also be included.

(D) "Carry-over" of wheat, for any marketing year shall be the quantity of wheat on hand in the United States at the beginning of such marketing year, not including any wheat which was produced in the United States during the calendar year then current, and not including any wheat held by the Federal Crop Insurance Corporation under the Federal Crop Insurance Act [7 U.S.C. 1501 et seq.].

(4)(A) "Commercial corn-producing area" shall include all counties in which the average production of corn (excluding corn used as silage) during the ten calendar years immediately preceding the calendar year for which such area is determined, after adjustment for abnormal weather conditions, is four hundred and fifty bushels or more per farm and four bushels or more for each acre of farm land in the county.

(B) Whenever prior to February 1 of any calendar year the Secretary has reason to believe that any county which is not included in the commercial corn-producing area determined pursuant to the provisions of subparagraph (A) of this subsection, but which borders upon one of the counties in such area, or that any minor civil division in a county bordering on such area, is producing (excluding corn used for silage) an average of at least four hundred and fifty bushels of corn per farm and an average of at least four bushels for each acre of farm land in the county or in the minor civil division, as the case may be, he shall cause immediate investigation to be made to determine such fact. If, upon the basis of such investigation, the Secretary finds that such county or minor civil division is likely to produce corn in such average amounts during such calendar year, he shall proclaim such determination and, commencing with such calendar year, such county shall be included in the commercial corn-producing area. In the case of a county included in the commercial corn-producing area pursuant to this subparagraph, whenever prior to February 1 of any calendar year the Secretary has reason to believe that facts justifying the inclusion of such county are not likely to exist in such calendar year, he shall cause an immediate investigation to be made with respect thereto. If, upon the basis of such investigation, the Secretary finds that such facts are not likely to exist in such calendar year, he shall proclaim such determination, and commencing with such calendar year, such county shall be excluded from the commercial corn-producing area.

(5) "Farm consumption" of corn means consumption by the farmer's family, employees, or household, or by his work stock; or consumption by poultry or livestock on his farm if such poultry or livestock, or the products thereof, are consumed or to be consumed by the farmer's family, employees, or household.

(6)(A) "Market", in the case of corn, cotton, rice, tobacco, and wheat, means to dispose of, in raw or processed form, by voluntary or involuntary sale, barter, or exchange, or by gift inter vivos, and, in the case of corn and wheat, by feeding (in any form) to poultry or livestock which, or the products of which, are sold, bartered, or exchanged, or to be so disposed of, but does not include disposing of any such commodities as premium to the Federal Crop Insurance Corporation under the Federal Crop Insurance Act [7 U.S.C. 1501 et seq.].

(B) "Marketed", "marketing", and "for market" shall have corresponding meanings to the term "market" in the connection in which they are used.

(C) "Market", in the case of peanuts, means to dispose of peanuts, including farmers' stock peanuts, shelled peanuts, cleaned peanuts, or peanuts in processed form, by voluntary or involuntary sale, barter, or exchange, or by gift inter vivos.

(7) "Marketing year" means, in the case of the following commodities, the period beginning on the first and ending with the second date specified below:

Corn, October 1–September 30;
Cotton, August 1–July 31;
Rice, August 1–July 31;
Tobacco (flue-cured), July 1–June 30;
Tobacco (other than flue-cured), October 1–September 30;
Wheat, June 1–May 31.

(8)(A) "National average yield" as applied to cotton or wheat shall be the national average yield per acre of the commodity during the ten calendar years in the case of wheat, and during the five calendar years in the case of cotton, preceding the year in which such national average yield is used in any computation authorized in this subchapter, adjusted for abnormal weather conditions and, in the case of wheat, but not in the case of cotton, for trends in yields.

(B) "Projected national yield" as applied to any crop of wheat shall be determined on the basis of the national yield per harvested acre of the commodity during each of the five calendar years immediately preceding the year in which such projected national yield is determined, adjusted for abnormal weather conditions affecting such yield, for trends in yields and for any significant changes in production practices.

(9) "Normal production" as applied to any number of acres of corn or rice means the normal yield for the farm times such number of acres. "Normal production" as applied to any number of acres of cotton or wheat means the projected farm yield times such number of acres.

(10)(A) "Normal supply" in the case of corn, rice, wheat, and peanuts for any marketing year shall be (i) the estimated domestic consumption of the commodity for the marketing year ending immediately prior to the marketing year for which normal supply is being determined, plus (ii) the estimated exports of the commodity for the marketing year for which normal supply is being determined, plus (iii) an allowance for carry-over. The allowance for carry-over shall be the following percentage of the sum of the consumption and exports used in computing normal supply: 15 per centum in the case of corn; 10 per centum in the case of rice; 20 per centum in the case of wheat; and 15 per centum in the case of peanuts. In determining normal supply the Secretary shall make such adjustments for current trends in consumption and for unusual conditions as he may deem necessary.

(B) "Normal supply" in the case of tobacco shall be a normal year's domestic consumption and exports, plus 175 per centum of a normal year's domestic consumption and 65 per centum of a normal year's exports as an allowance for a normal carry-over.

(C) The "normal supply" of cotton for any marketing year shall be the estimated domestic consumption of cotton for the marketing year for which such normal supply is being determined, plus the estimated exports of cotton for such marketing year, plus, 30 per centum of the sum of such consumption and exports as an allowance for carry-over.

(11)(A) "Normal year's domestic consumption", in the case of corn and wheat, shall be the yearly average quantity of the commodity, wherever produced, that was cosumed [1] in the United States during the ten marketing years immediately preceding the marketing year in which such consumption is determined, adjusted for current trends in such consumption.

(B) "Normal year's domestic consumption", in the case of cotton and tobacco, shall be the yearly average quantity of the commodity produced in the United States that was consumed in the United States during the ten marketing years immediately preceding the marketing year in which such consumption is determined, adjusted for current trends in such consumption.

(C) "Normal year's domestic consumption", in the case of rice, shall be the yearly average quantity of rice produced in the United States that was consumed in the United States during the five marketing years immediately preceding the marketing year in which such consumption is determined, adjusted for current trends in such consumption.

(12) "Normal year's exports" in the case of corn, cotton, rice, tobacco, and wheat shall be the yearly average quantity of the commodity produced in the United States that was exported from the United States during the ten marketing years (or, in the case of rice, the five marketing years) immediately preceding the marketing year in which such exports are determined, adjusted for current trends in such exports.

(13)(A) Repealed. Pub. L. 87-703, title III, § 320(1), Sept. 26, 1962, 76 Stat. 625.

(B) "Normal yield" for any county, in the case of peanuts, shall be the average yield per acre of peanuts for the county adjusted for abnormal weather conditions, during the five calendar years immediately preceding the year in which such normal yield is determined. For 1942, the normal yield for any county, in the case of peanuts, shall be the average yield per acre for peanuts for the county, adjusted for abnormal conditions, during the years 1936-1940, inclusive, except that for any county in which the years 1935-1939, inclusive, are equally as representative, such period may be used in determining the normal yields for counties in the State.

(C) In applying subparagraph (A) or (B) of this paragraph, if for any such year the data are not available, or there is no actual yield, an appraised yield for such year, determined in accordance with regulations issued by the Secretary, shall be used as the actual yield for such year. In applying such subparagraphs, if, on account of drought, flood, insect pests, plant disease, or other uncontrollable natural cause, the yield in any year of such ten-year period or five-year period, as the case may be, is less than 75 per centum of the average (computed without regard to such year) such year shall be eliminated in calculating the normal yield per acre.

(D) "Normal yield" for any county, in the case of rice and wheat, shall be the average yield per acre of rice or wheat, as the case may be, for the county during the five calendar years immediately preceding the year for which such normal yield is determined in the case of rice, or during the five years immediately preceding the year in which such normal yield is determined in the case of wheat, adjusted for abnormal weather conditions and for trends in yields. If for any such year data are not available, or there is no actual yield, an appraised yield for such year, determined in accordance with regulations issued by the Secretary, taking into consideration the yields obtained in surrounding counties during such year and the yield in years for which data are available, shall be used as the actual yield for such year.

(E) "Normal yield" for any farm, in the case of rice and wheat, shall be the average yield per acre of rice or wheat, as the case may be, for the farm during the five calendar years immediately preceding the year for which such normal yield is determined in the case of rice, or during the five years immediately preceding the year in which such normal yield is determined in the case of wheat, adjusted for abnormal weather conditions and for trends in yields. If for any such year the data are not available or there is no actual yield, then the normal yield for the farm shall be ap-

[1] So in original. Probably should read "consumed".

praised in accordance with regulations issued by the Secretary, taking into consideration abnormal weather conditions, trends in yields, the normal yield for the county, the yields obtained on adjacent farms during such year and the yield in years for which data are available.

(F) In applying subparagraphs (D) and (E) of this paragraph, if on account of drought, flood, insect pests, plant disease, or other uncontrollable natural cause, the yield for any year of such five-year period is less than 75 per centum of the average, 75 per centum of such average shall be substituted therefor in calculating the normal yield per acre. If, on account of abnormally favorable weather conditions, the yield for any year of such five-year period is in excess of 125 per centum of the average, 125 per centum of such average shall be substituted therefor in calculating the normal yield per acre.

(G) "Normal yield" for any farm, in the case of corn or peanuts, shall be the average yield per acre of corn or peanuts, as the case may be, for the farm, adjusted for abnormal weather conditions, during the five calendar years immediately preceding the year in which such normal yield is determined. For 1942, the normal yield for any farm, in the case of peanuts, shall be the average yield per acre of peanuts for the farm, adjusted for abnormal conditions, during the years 1936–1940, inclusive, except that for any county in which the years 1935–1939, inclusive, are equally as representative, such period may be used in determining normal yields for farms in the county. If for any such year the data are not available or there is no actual yield, then the normal yield for the farm shall be appraised in accordance with regulations of the Secretary, taking into consideration abnormal weather conditions, the normal yield for the county, and the yield in years for which data are available.

(H) "Normal yield" for any county, for any crop of cotton, shall be the average yield per acre of cotton for the county, adjusted for abnormal weather conditions and any significant changes in production practices during the five calendar years immediately preceding the year in which the national marketing quota for such crop is proclaimed. If for any such year the data are not available, or there is no actual yield, an appraised yield for such year, determined in accordance with regulations issued by the Secretary, shall be used as the actual yield for such year.

(I) "Normal yield" for any farm, for any crop of cotton, shall be the average yield per acre of cotton for the farm, adjusted for abnormal weather conditions and any significant changes in production practices during the three calendar years immediately preceding the year in which such normal yield is determined. If for any such year the data are not available, or there is no actual yield, then the normal yield for the farm shall be appraised in accordance with regulations of the Secretary, taking into consideration abnormal weather conditions, the normal yield for the county, changes in production practices, and the yield in years for which data are available.

(J) "Projected county yield" for any crop of wheat shall be determined on the basis of the yield per harvested acre of such commodity on the county during each of the five calendar years immediately preceding the year in which such projected county yield is determined, adjusted for abnormal weather conditions affecting such yield, for trends in yields and for any significant changes in production practices.

(K) "Projected farm yield" for any crop of wheat shall be determined on the basis of the yield per harvested acre of such commodity in the farm during each of the three calendar years (five calendar years in the case of wheat) immediately preceding the year in which such projected farm yield is determined, adjusted for abnormal weather conditions affecting such yield, for trends in yields and for any significant changes in production practices, but in no event shall such projected farm yield be less than the normal yield for such farm as provided in subparagraph (E) of this paragraph.

(L) "Projected national, State, and county yields" for any crop of cotton shall be determined on the basis of the yield per harvested acre of such crop in the United States, the State and the county, respectively, during each of the five calendar years immediately preceding the year in which such projected yield for the United States, the State, and the county, respectively, is determined, adjusted for abnormal weather conditions affecting such yield, for trends in yields, and for any significant changes in production practices.

(M) "Projected farm yield" for any crop of cotton shall be determined on the basis of the yield per harvested acre of such crop on the farm during each of the three calendar years immediately preceding the year in which such projected farm yield is determined, adjusted for abnormal weather conditions affecting such yield, for trends in yields, and for any significant changes in production practices, but in no event shall such projected farm yield be less than the normal yield for such farm as provided in subparagraph (I) of this paragraph.

(14)(A) "Reserve supply level", in the case of corn, shall be a normal year's domestic consumption and exports of corn plus 10 per centum of a normal year's domestic consumption and exports, to insure a supply adequate to meet domestic consumption and export needs in years of drought, flood, or other adverse conditions, as well as in years of plenty.

(B) "Reserve supply level" of tobacco shall be the normal supply plus 5 per centum thereof, to insure a supply adequate to meet domestic consumption and export needs in years of drought, flood, or other adverse conditions, as well as in years of plenty.

(15) "Tobacco" means each one of the kinds of tobacco listed below comprising the types specified as classified in Service and Regulatory Announcement Numbered 118 of the Bureau of Agricultural Economics of the Department.

Flue-cured tobacco, comprising types 11, 12, 13, and 14;

Fire-cured tobacco comprising types 21, 22, 23, and 24;

Dark air-cured tobacco, comprising types 35 and 36;

Virginia sun-cured tobacco, comprising type 37;

Burley tobacco, comprising type 31;

Maryland tobacco, comprising type 32;

Cigar-filler and cigar-binder tobacco, comprising types 42, 43, 44, 45, 46, 51, 52, 53, 54, and 55;

Cigar-filler tobacco, comprising type 41.

The provisions of this subchapter shall apply to each of such kinds of tobacco severally: *Provided,* That any one or more of the types comprising any such kind of tobacco shall be treated as a "kind of tobacco" for the purposes of this chapter and sections 590h and 590*o* of title 16 if the Secretary finds there is a difference in supply and demand conditions as among such types of tobacco which results in a difference in the adjustments needed in the marketings thereof in order to maintain supplies in line with demand: *Provided further,* That with respect to the 1958 and subsequent crops, type 21 (Virginia) fire-cured tobacco shall be treated as a "kind of tobacco" for the purposes of all of the provisions of this subchapter, except that for the purposes of section 1312(c) of this title, types 21, 22, and 23, fire-cured tobacco shall be treated as one "kind of tobacco".

(16)(A) "Total supply" of wheat, corn, rice, and peanuts for any marketing year shall be the carry-over of the commodity for such marketing year, plus the estimated production of the commodity in the United States during the calendar year in which such marketing year begins and the estimated imports of the commodity into the United States during such marketing year.

(B) "Total supply" of tobacco for any marketing year shall be the carry-over at the beginning of such marketing year (or on January 1 of such marketing year in the case of Maryland tobacco) plus the estimated production thereof in the United States during the calendar year in which such marketing year begins, except that the estimated production of type-46 tobacco during the marketing year with respect to which the determination is being made shall be used in lieu of the estimated production of such type during the calendar year in which such marketing year begins in determining the total supply of cigar-filler and cigar-binder tobacco.

(C) "Total supply" of cotton for any marketing year shall be the carry-over at the beginning of such marketing year, plus the estimated production of cotton in the United States during the calendar year in which such marketing year begins and the estimated imports of cotton into the United States during such marketing year.

(c) Use of Federal statistics

The latest available statistics of the Federal Government shall be used by the Secretary in making the determinations required to be made by the Secretary under this chapter.

(d) Exclusion of stocks of certain commodities

In making any determination under this chapter or under the Agricultural Act of 1949 [7 U.S.C. 1421 et seq.] with respect to the carryover of any agricultural commodity, the Secretary shall exclude from such determination the stocks of any commodity acquired pursuant to, or under the authority of, the Strategic and Critical Materials Stock Piling Act (60 Stat. 596) [50 U.S.C. 98 et seq.].

(Feb. 16, 1938, ch. 30, title III, § 301, 52 Stat. 38; Apr. 7, 1938, ch. 107, §§ 2–4, 52 Stat. 202; June 13, 1940, ch. 360, § 1, 54 Stat. 392; July 2, 1940, ch. 521, §§ 3–5, 54 Stat. 727, 728; Nov. 22, 1940, ch. 914, §§ 1, 3, 4, 5 Stat. 1209, 1210; Nov. 25, 1940, ch. 917, 54 Stat. 1211; Apr. 3, 1941, ch. 39, §§ 2, 3, 55 Stat. 91, 92; July 9, 1942, ch. 497, § 1 (4), (5), 56 Stat. 654; July 3, 1948, ch. 827, title II, § 201(a), (b), (d), (e), 62 Stat. 1250; Aug. 29, 1949, ch. 518, § 2(a), 63 Stat. 675; Oct. 31, 1949, ch. 792, title IV, §§ 409(a)–(d), 415(c)–(e), 418(b), (c), 63 Stat. 1056, 1057, 1062; July 8, 1952, ch. 587, 66 Stat. 442; July 17, 1952, ch. 933, § 1, 66 Stat. 758; July 14, 1953, ch. 194, § 6, 67 Stat. 152; Aug. 28, 1954, ch. 1041, title III, §§ 301, 302, 68 Stat. 902; May 28, 1956, ch. 327, title V, § 502, title VI, § 602, 70 Stat. 212, 213; July 10, 1957, Pub. L. 85–92, § 1, 71 Stat. 284; Sept. 27, 1962, Pub. L. 87–703, title III, § 320, 76 Stat. 625; Apr. 11, 1964, Pub. L. 88–297, title I, § 106(5)–(7), 78 Stat. 177; Nov. 3, 1965, Pub. L. 89–321, title IV, § 403, title V, §§ 509, 511(a), 79 Stat. 1197, 1204, 1205; Nov. 30, 1970, Pub. L. 91–524, title IV, § 405(b), as added Aug. 10, 1973, Pub. L. 93–86, § 1(12), 87 Stat. 229; July 25, 1975, Pub. L. 94–61, § 1, 89 Stat. 302.)

REFERENCES IN TEXT

Emergency Price Control Act of 1942, referred to in subsec. (a)(1)(B), was act Jan. 30, 1942, ch. 26, 56 Stat. 23, which was classified to section 901 et seq. of the Appendix to title 50, War and National Defense, and which terminated June 30, 1947.

The effective date of the Agricultural Act of 1948, referred to in subsec. (a)(1)(E)(i), is covered by the Effective Date of 1948 Amendment note under section 624 of this title with reference to title I of said act, and by the Effective Date of 1948 Amendment note under this section with reference to titles II and III of said Act.

The Federal Crop Insurance Act, referred to in subsec. (b)(3)(D) and (6)(A), is title V of act Feb. 16, 1938, ch. 30, 52 Stat. 72, which is classified generally to chapter 36 (§ 1501 et seq.) of this title. For complete classification of this Act to the Code, see Tables volume.

The Agricultural Act of 1949, referred to in subsec. (d), is act Oct. 31, 1949, ch. 792, 63 Stat. 1051, which is classified generally to chapter 35A (§ 1421 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1421 of this title, and Tables volume.

The Strategic and Critical Materials Stock Piling Act, referred to in subsec. (d), is act June 7, 1939, ch. 190, 53 Stat. 811, which is classified generally to subchapter III (§ 98 et seq.) of chapter 5 of Title 50, War and National Defense. For complete classification of this Act to the Code, see Short Title note set out under section 98 of Title 50, and Tables volume.

AMENDMENTS

1975—Subsec. (b)(7). Pub. L. 94-61 substituted "Wheat, June 1-May 31" for "Wheat, July 1-June 30".

1973—Subsec. (b)(13)(K). Pub. L. 91–524, § 405(b), as added by Pub. L. 93-86 inserted "(five calendar years in the case of wheat)" following "three calendar years".

1965—Subsec. (b)(8). Pub. L. 89-321, § 509(1), designated existing provisions as subpar. (A) and added subpar. (B).

Subsec. (b)(9). Pub. L. 89-321, § 511(a), struck out "cotton" and "wheat" in the first sentence, and added the definition or normal production when applied to any number of acres of cotton or wheat.

Subsec. (b)(13). Pub. L. 89-321, §§ 403, 509(2), added subpars. (J), (K), (L), and (M).

1964—Subsec. (b)(13). Pub. L. 88-297, § 106(5)-(7), deleted "cotton or" preceding "peanuts" in subpar. (B) in two instances, deleted ", cotton," following "corn" in subpar. (G) in two instances, and added subpars. (H) and (I), respectively.

1962—Subsec. (b)(13). Pub. L. 87-703 struck out par. (A), which defined "normal yield" for any county in the case of corn or wheat; inserted in pars. (D) and (E) "and wheat" after "in the case of rice", "or wheat, as the case may be," after "per acre of rice", and "in the case of rice, or during the five years immediately preceding the year in which such normal yield is determined in the case of wheat" after "determined"; and struck out from par. (G) "wheat," after "corn," in two instances, "and, in the case of wheat, but not in the case of corn, cotton, or peanuts, for trends in yields" after "abnormal weather conditions", "ten calendar years in the case of wheat, and" preceding "five calendar years" and "in the case of corn, cotton, or peanuts" after "five calendar years".

1957—Subsec. (b)(15). Pub. L. 85-92 added proviso relating to treatment of type 21 fire-cured tobacco as a "kind of tobacco".

1956—Subsec. (a)(1)(E). Act May 28, 1956, § 602, inserted "(not counting 1956 in the case of basic agricultural commodities)" following "full calendar years".

Subsec. (b)(13). Act May 28, 1956, § 502, limited the determination of normal yield provided for in subpar. (D) only to counties and authorized adjustments for abnormal weather conditions and for trends in yields, added subpars. (E) and (F), and redesignated subpar. (E) as (G).

1954—Subsec. (a)(1)(E). Act Aug. 28, 1954, § 301, changed the definition of "transitional parity price" as applied to basic agricultural commodities so as to make it "old parity" less 5 per centum for each full year elapsed since Jan. 1, 1955, instead of Jan. 1, 1949.

Subsec. (b). Act Aug. 28, 1954, § 302, increased carryover allowance from 10 per centum to 15 per centum in the case of corn and from 15 per centum to 20 per centum in the case of wheat in subpar. (10)(A), and provided for computing county and farm "normal yields" on the basis of 5-year yields instead of 10-year yields in the case of corn in subpars. (13)(A) and (13)(E).

1953—Subsec. (d). Act July 14, 1953, added subsec. (d).

1952—Subsec. (a)(1)(G). Act July 17, 1952, extended the dual parity provisions for two years.

Subsecs. (b)(3)(C) and (b)(16)(B). Act July 8, 1952, provided for the computation of carry-over as of Jan. 1st, following the beginning of the marketing year instead of Oct. 1st the beginning of the marketing year.

1949—Subsec. (a)(1)(B). Act Oct. 31, 1949, § 409(a), added last sentence.

Subsec. (a)(1)(C). Act Oct. 31, 1949, § 409(b), inserted ", wages paid hired farm labor" following "buy" and ", wages" following "such prices".

Subsec. (a)(1)(G). Act Oct. 31, 1949, § 409(c), added subsec. (a)(1)(G).

Subsec. (b)(1)(B). Act Oct. 31, 1949, § 418(b), included the actual production of rice.

Subsec. (b)(3)(B). Act Oct. 31, 1949, § 415(e), repealed amendatory provisions of act July 3, 1948, ch. 827, title II, § 201(c), 62 Stat. 1250.

Act Aug. 29, 1949, § 2(a)(1), changed the definition of "carry-over" of cotton by excluding United States cotton on hand outside the United States.

Subsec. (b)(9). Act Oct. 31, 1949, § 418(c), included the normal production of rice.

Subsec. (b)(10(A). Act Oct. 31, 1949, § 409(d), increased from 7 per centum to 10 per centum the carryover allowance for corn.

Act Aug. 29, 1949, § 2(a)(2), made the provision inapplicable to cotton.

Subsec. (b)(10)(C). Act Aug. 29, 1949, § 2(a)(2), added subsec. (b)(10)(C) which was also reenacted by act Oct. 31, 1949, § 415(c).

Subsec. (b)(16)(A). Act Oct. 31, 1949, § 415(d), deleted "cotton".

Act Aug. 29, 1949, § 2(a)(3), made the provision inapplicable to cotton.

Subsec. (b)(16)(C). Act Aug. 29, 1949, § 2(a)(3), added subsec. (b)(16)(C), which was also reenacted by act Oct. 31, 1949, § 415(d).

1948—Subsec. (a). Act July 3, 1948, § 201(a), struck out paragraphs (1) and (2) and inserted new paragraphs (1) and (2) to change the method of computing parity prices to give recognition to changes in relationships among the prices of agricultural commodities themselves which have occurred since the base period 1910 to 1914, and redefined "parity".

Subsec. (b)(3)(A). Act July 3, 1948, § 201(b), redefined "carry-over" in the case of corn, rice and peanuts.

Subsec. (b)(3)(B). Act July 3, 1948, § 201(c), redefined "carry-over" in the case of cotton.

Subsec. (b)(10). Act July 3, 1948, § 201(d), redefined "normal supply".

Subsec. (b)(16). Act July 3, 1948, § 201(e), redefined "total supply".

1942—Subsec. (b)(13)(B). Act July 9, 1942, § 1(4), inserted "or peanuts" after the word "cotton" wherever it appeared, and added a new sentence reading "For 1942, the normal yield for any county, in the case of peanuts, shall be the average yield per acre for peanuts for the county, adjusted for abnormal conditions, during the years 1936-1940, inclusive, except that for any county in which the years 1935-1939, inclusive, are equally as representative, such period may be used in determining the normal yields for counties in the State".

Subsec. (b)(13)(E). Act July 9, 1942, § 1(5), deleted "or" after "wheat" and before "cotton" wherever it appeared and inserted "or peanuts" after "cotton" wherever it appeared and added after first sentence a new sentence reading "For 1942, the normal yield for any farm, in the case of peanuts, shall be the average yield per acre of peanuts for the farm, adjusted for abnormal conditions, during the years 1936-1940, inclusive, except that for any county in which the years 1935-1939, inclusive, are equally as representative, such period may be used in determining normal yields for farms in the county".

1941—Subsec. (b)(1)(B). Act April 3, 1941, § 2, inserted "or peanuts" after "cotton".

Subsec. (b)(6)(C). Act Apr. 3, 1941, § 3, added subsec. (b)(6)(C).

1940—Subsec. (a)(1). Act Nov. 22, 1940, § 3, inserted "and, in the case of Burley and flue-cured tobacco, shall be the period August 1934 to July 1939; except that the August 1919-July 1929 base period shall be used in allocating any funds appropriated prior to September 1, 1940" in the last sentence after "July, 1929".

Subsec. (b)(3)(C). Act June 13, 1940, inserted exception.

Former subsecs. (b)(6)(C) and (b)(6)(D) were omitted in amendment to subsec. (b)(6) by act July 2, 1940.

Subsec. (b)(13)(A). Act July 2, 1940, § 4, among other changes added "or wheat" after "corn" wherever it appeared and substituted "county" for "farm" wherever it appeared.

Subsec. (b)(13)(B). Act July 2, 1940, § 5, among other changes inserted "or wheat" before "cotton" and deleted "and, in the case of wheat but not in the case of cotton, for trends in yields, during the ten calendar years in the case of wheat, and" after "weather conditions".

Subsec. (b)(13)(E). Act Nov. 25, 1940, struck out in the first sentence "with respect to such normal yield is used in any computation authorized under this title" and substituted "in which such normal yield is determined" in lieu thereof.

Subsec. (b)(15). Act Nov. 22, 1940, §§ 1, 4, among other changes struck out "Fire-cured and dark air cured tobacco comprising types 21, 22, 23, 24, 35, 36,

and 37" and substituted "Fire-cured tobacco comprising types 21, 22, 23, and 24; Dark air-cured tobacco comprising types 35 and 36" and added a proviso at the end of the last sentence thereof.

1938—Subsec. (b)(13). Act Apr. 7, 1938, substituted "county" for "farm" in subpars. (A) and (B) and added subpar. (E).

EFFECTIVE DATE OF 1975 AMENDMENT

Section 2 of Pub. L. 94-61 provided that: "The amendment made by the first section of this Act [amending subsec. (b)(7) of this section] shall become effective June 1, 1975".

EFFECTIVE AND TERMINATION DATES OF 1973 AMENDMENT

Section 405(b) of Pub. L. 91-524, as added by section 1(12) of Pub. L. 93-86, provided in part that the amendment by section 405(b) of Pub. L. 91-524, is effective with respect to the 1974 through 1977 crops.

EFFECTIVE DATE OF 1965 AMENDMENT

Section 511(a) of Pub. L. 89-321, which amended subsec. (b)(9) of this section, provided in part that the amendment is effective beginning with the crop planted for harvest in 1966.

EFFECTIVE DATE OF 1962 AMENDMENT

Section 323 of Pub. L. 87-703 provided that: "The amendments to the Agricultural Adjustment Act of 1938, as amended, and to Public Law 74, Seventy-seventh Congress, as amended, made by sections 310 through 322 of this Act [enacting sections 1334b and 1339 of this title, amending this section and sections 1331 to 1336, 1340, 1371 and 1385 of this title, and repealing section 1337 of this title] shall be in effect only with respect to programs applicable to the crops planted for harvest in the calendar year 1964 or any subsequent year and the marketing years beginning in the calendar year 1964, or any subsequent year".

EFFECTIVE DATE OF 1949 AMENDMENT

Section 415(a), (b) of act Oct. 31, 1949, provided that:

"(a) Except as modified by this Act [sections 612c, 1301(a)(1)(B), (C), (G), (b)(1)(B), (3)(B), (9), (10)(A), (C), (16)(A), (C), former sections 1302, 1322(a), sections 1328, 1343, 1344(f)(3), 1345, 1353 to 1356, 1421 to 1446a, 1446d, 1447 to 1449, and 1461 to 1468 of this title, former sections 1134c and 1134j of Title 12, Banks and Banking, section 713a-4 of Title 15, Commerce and Trade, former section 1426 of Title 26, Internal Revenue Code, 1939, now covered by section 3121 of Title 26, Internal Revenue Code, 1954, and section 410 of Title 42, The Public Health and Welfare] or by Public Law 272 [sections 1301(b)(3)(B), (10)(A), (10)(C), (16)(A), (16)(C), former section 1301b, sections 1330(9), 1340(9), 1342 to 1348, 1358(c), 1362, and 1374(a), (b) of this title], Eighty-first Congress, sections 201(b), 201(d), 201(e), 203, 207(a), and 208 of the Agricultural Act of 1948 [sections 1301(b)(3)(A), (10), (16), 1312(a), former section 1322(a), and section 1328 of this title] shall be effective for the purpose of taking any action with respect to the 1950 and subsequent crops upon the enactment of this Act [Oct. 31, 1949]. If the time within which any such action is required to be taken shall have elapsed prior to the enactment of this Act [Oct. 31, 1949], such action shall be taken within thirty days after the enactment of the Act [Oct. 31, 1949].

"(b) No provision of the Agricultural Act of 1948 shall be deemed to supersede any provision of Public Law 272, Eighty-first Congress."

EFFECTIVE DATE OF 1948 AMENDMENT

Section 303 of act July 3, 1948, provided that the amendments to this section and sections 602, 608c, 612c, 672, 1301a, former section 1302, section 1312, former section 1322, sections 1328, 1333, 1335, 1336, 1343, 1345, 1355, 1381, and 1385 of this title and the repeal of sections 608e and 1322a, effected by said act July 3, 1948, shall be effective Jan. 1, 1950.

TRANSFER OF FUNCTIONS

All functions of all officers, agencies and employees of the Department of Agriculture were transferred, with certain exceptions, to the Secretary of Agriculture by 1953 Reorg. Plan No. 2, § 1, eff. June 4, 1953, 18 F.R. 3219, 67 Stat. 633, set out as a note under section 2201 of this title.

Administration of program of the Federal Crop Insurance Corporation was transferred to Secretary of Agriculture by 1946 Reorg. Plan No. 3, § 501, eff. July 16, 1946, 11 F.R. 7877, 60 Stat. 1100, set out in the Appendix to Title 5, Government Organization and Employees.

The functions of the Bureau of Agricultural Economics were transferred to other units of the Department of Agriculture under Secretary's memorandum 1320, supp. 4, of Nov. 2, 1953.

STUDY OF METHODS OF IMPROVING PARITY FORMULA

Section 602 of act May 28, 1956, required the Secretary to make a thorough study of the possible methods of improving the parity formula and report thereon, with specific recommendations, including drafts of necessary legislation to carry out such recommendations, to Congress not later than January 31, 1957.

TOBACCO DEFINITION UNAFFECTED BY ACREAGE-POUNDAGE MARKETING QUOTAS AND PRICE SUPPORT PROVISIONS

Authority or responsibility of Secretary of Agriculture under subsec. (b)(15) of this section with respect to treatment of different types of tobacco as different kinds of tobacco unaffected by acreage-poundage quotas and price support provisions, see note set out under section 1314c of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 602, 1111, 1301a, 1330, 1445, 1782 of this title; title 43 sections 615p, 615nn, 615qq, 615vvv, 615bbbb, 615iiii, 616*ll*, 616vv-4, 616fff-6, 616rrr, 616www, 616rrrr, 616xxxx, 620c, 1524.

§ 1301a. References to parity prices, etc., in other laws after January 1, 1950

All references in other laws to—

(1) parity,

(2) parity prices,

(3) prices comparable to parity prices, or

(4) prices to be determined in the same manner as provided by this chapter prior to January 1, 1950 for the determination of parity prices,

with respect to prices for agricultural commodities and products thereof, shall after January 1, 1950 be deemed to refer to parity prices as determined in accordance with the provisions of section 1301(a)(1) of this title.

(July 3, 1948, ch. 827, title III, § 302(f), 62 Stat. 1258.)

CODIFICATION

Section was enacted as a part of the Agricultural Act of 1948, and not as a part of the Agricultural Adjustment Act of 1938 which comprises this chapter.

EFFECTIVE DATE

Section effective Jan. 1, 1950, see section 303 of act July 3, 1948, set out as a note. under section 1301 of this title.

§ 1301b. Repealed. Pub. I. 85–835, title I, § 108, Aug. 28, 1958, 72 Stat. 993

Section, act Aug. 29, 1949, ch. 518, § 3(a), 63 Stat. 676, prescribed standard cotton grade for parity and price support purposes.

EFFECTIVE DATE OF REPEAL

Section 108 of Pub. L. 85–835 provided in part that the repeal of this section shall become effective with the 1961 crop.

§ 1302. Repealed. Oct. 31, 1949, ch. 792, title IV, § 414, 63 Stat. 1057

Section, acts Feb. 16, 1938, ch. 30, title III, § 302, 52 Stat. 43; June 21, 1938, ch. 554, title V, § 502, 52 Stat. 820; July 3, 1948, ch. 827, title II, § 202(a), 62 Stat. 1252, related to price support of agricultural commodities.

§ 1303. Parity payments

If and when appropriations are made therefor, the Secretary is authorized and directed to make payments to producers of corn, wheat, cotton, rice, or tobacco, on their normal production of such commodities in amounts which, together with the proceeds thereof, will provide a return to such producers which is as nearly equal to parity price as the funds so made available will permit. All funds available for such payments with respect to these commodities shall unless otherwise provided by law, be apportioned to these commodities in proportion to the amount by which each fails to reach the parity income. Such payments shall be in addition to and not in substitution for any other payments authorized by law.

(Feb. 16, 1938, ch. 30, title III, § 303, 52 Stat. 45.)

CROSS REFERENCES

Delegation of regulatory functions of Secretary of Agriculture, see section 450c et seq. of this title.

Rental or benefit payments, see section 608 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 12 section 1150a.

§ 1304. Consumer safeguards

The powers conferred under this chapter shall not be used to discourage the production of supplies of foods and fibers sufficient to maintain normal domestic human consumption as determined by the Secretary from the records of domestic human consumption in the years 1920 to 1929, inclusive, taking into consideration increased population quantities of any commodity that were forced into domestic consumption by decline in exports during such period, current trends in domestic consumption and exports of particular commodities, and the quantities of substitutes available for domestic consumption within any general class of food commodities. In carrying out the purposes of this chapter it shall be the duty of the Secretary to give due regard to the maintenance of a continuous and stable supply of agricultural commodities from domestic production adequate to meet consumer demand at prices fair to both producers and consumers.

(Feb. 16, 1938, ch. 30, title III, § 304, 52 Stat. 45.)

§ 1305. Transfer of acreage allotments or feed grain bases on public lands upon request of State agencies

Notwithstanding any other provision of law, the Secretary, upon the request of any agency of any State charged with the administration of the public lands of the State, may permit the transfer of acreage allotments or feed grain bases together with relevant production histories which have been determined pursuant to this chapter, or section 590p of title 16, or the Agricultural Act of 1949, as amended [7 U.S.C. 1421 et seq.], from any farm composed of public lands to any other farm or farms in the same county composed of public lands: *Provided,* That as a condition for the transfer of any allotment or base an acreage equal to or greater than the allotment or base transferred prior to adjustment, if any, shall be devoted to and maintained in permanent vegetative cover on the farm from which the transfer is made. The Secretary shall prescribe regulations which he deems necessary for the administration of this section, which may provide for adjusting downward the size of the allotment or base transferred if the farm to which the allotment or base is transferred normally has a higher yield per acre for the commodity for which the allotment or base is determined, for reasonable limitations on the size of the resulting allotments and bases on farms to which transfers are made, taking into account the size of the allotments and bases on farms of similar size in the community, and for retransferring allotments or bases and relevant histories if the conditions of the transfers are not fulfilled. The term "acreage allotments" as used in this section includes the farm base acreage allotments for upland cotton.

(Pub. L. 89–321, title VII, § 706, Nov. 3, 1965, 79 Stat. 1210; Pub. L. 91–524, title IV, § 405, title VI, § 606, Nov. 30, 1970, 84 Stat. 1366, 1378; Pub. L. 93–86, § 1(12), Aug. 10, 1973, 87 Stat. 229.)

REFERENCES IN TEXT

The Agricultural Act of 1949, referred to in text, is act Oct. 31, 1949, ch. 792, 63 Stat. 1051, and is classified generally to chapter 35A (§ 1421 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1421 of this title, and Tables volume.

CODIFICATION

Section was enacted as part of the Food and Agriculture Act of 1965, and not as part of the Agricultural Adjustment Act of 1938 which comprises this chapter.

AMENDMENTS

1973—Pub. L. 93–86 struck out provision that the term "acreage allotments" as used in this section includes the domestic allotment for wheat.

1970—Pub. L. 91–524 inserted reference to the Agricultural Act of 1949, as amended, and provided that the term "acreage allotments" includes the farm base acreage allotments for upland cotton and the domestic allotment for wheat.

EFFECTIVE DATE OF 1973 AMENDMENT

Section 1(12) of Pub. L. 93–86 provided in part that the amendment by section 1(12) of Pub. L. 93–86 is effective with the 1974 crop.

EFFECTIVE AND TERMINATION DATES OF 1970 AMENDMENT

Sections 405 and 606 of Pub. L. 91-524, as amended by section 1(12), (22) of Pub. L. 93-86 provided in part that the amendments by Pub. L. 91-524 are effective only with respect to the 1971 through 1977 crops.

§ 1306. Projected yields; determination; base period

Notwithstanding any other provision of law, in the determination of farm yields the Secretary may use projected yields in lieu of normal yields. In the determination of such yields the Secretary shall take into account the actual yield proved by the producer for the base period used in determining the projected yield (except that in the case of wheat, if the yield is abnormally low in any one of the calendar years of the base period because of drought, flood, or other natural disaster, the Secretary shall take into account the actual yield proved by the producer in the other four years of such base period), and the projected yield shall not be less than such actual yield proved by the producer.

(Pub. L. 89-321, title VII, § 708, Nov. 3, 1965, 79 Stat. 1211; Pub. L. 91-524, title IV, § 405(b), as added Pub. L. 93-86, § 1(12), Aug. 10, 1973, 87 Stat. 229.)

CODIFICATION

Section was enacted as part of the Food and Agriculture Act of 1965, and not as part of the Agricultural Adjustment Act of 1938 which comprises this chapter.

AMENDMENTS

1973—Pub. L. 91-524, § 405(b), as added by Pub. L. 93-86 inserted "(except that in the case of wheat, if the yield is abnormally low in any one of the calendar years of the base period because of drought, flood, or other natural disaster, the Secretary shall take into account the actual yield proved by the producer in the other four years of such base period)" following "determining the projected yield".

EFFECTIVE AND TERMINATION DATES OF 1973 AMENDMENT

Section 405(b) of Pub. L. 91-524, as added by section 1(12) of Pub. L. 93-86, provided in part that the amendment by section 405(b) of Pub. L. 91-524 is effective with respect to the 1974 through 1977 crops

§ 1307. Limitation on payments under wheat, feed grains, and cotton programs for 1974 through 1977 crops

Notwithstanding any other provision of law—

(1) The total amount of payments which a person shall be entitled to receive under one or more of the annual programs established by titles IV, V, and VI of this Act for the 1974 through 1977 crops of the commodities shall not exceed $20,000.

(2) The term "payments" as used in this section shall not include loans or purchases, or any part of any payment which is determined by the Secretary to represent compensation for resource adjustment or public access for recreation.

(3) If the Secretary determines that the total amount of payments which will be earned by any person under the program in effect for any crop will be reduced under this section, the set-aside acreage for the farm or farms on which such person will be sharing in payments earned under such program shall be reduced to such extent and in such manner as the Secretary determines will be fair and reasonable in relation to the amount of the payment reduction.

(4) The Secretary shall issue regulations defining the term "person" and prescribing such rules as he determines necessary to assure a fair and reasonable application of such limitation: *Provided*, That the provisions of this Act which limit payments to any person shall not be applicable to lands owned by States, political subdivisions, or agencies thereof, so long as such lands are farmed primarily in the direct furtherance of a public function, as determined by the Secretary. The rules for determining whether corporations and their stockholders may be considered as separate persons shall be in accordance with the regulations issued by the Secretary on December 18, 1970.

(Pub. L. 91-524, title I, § 101, Nov. 30, 1970, 84 Stat. 1358; Pub. L. 93-86, § 1(1), Aug. 10, 1973, 87 Stat. 221.)

REFERENCES IN TEXT

Titles IV, V, and VI of this Act, referred to in par. (1), are titles IV, V, and VI of Pub. L. 91-524, Nov. 30, 1970, 84 Stat. 1358. For classification of this Act to the Code, see Short Title of 1970 Amendment note set out under section 1281 of this title.

This Act, referred to in par. (4), is the Agricultural Act of 1970, Pub. L. 91-524, Nov. 30, 1970, 84 Stat. 1358. For classification of this Act to the Code, see Short Title of 1970 Amendment note under section 1281 of this title.

CODIFICATION

Section was enacted as part of the Agricultural Act of 1970, and not as part of the Agricultural Adjustment Act of 1938 which comprises this chapter.

AMENDMENTS

1973—Par. (1). Pub. L. 93-86 substituted "one or more of the annual programs established by titles IV, V, and VI of this Act for the 1974 through 1977 crops of the Commodities shall not exceed $20,000" for "each of the annual programs established by titles IV, V, and VI of this Act for the 1971, 1972, or 1973 crop of the commodity shall not exceed $55,000".

Par. (2). Pub. L. 93-86 substituted "shall not include loans or purchases, or any part of any payment which is determined by the Secretary to represent compensation for resource adjustment or public access for recreation" for "includes price-support payments, set-aside payments, diversion payments, public access payments, and marketing certificates, but does not include loans or purchases".

Par. (3). Pub. L. 93-86 re-enacted par. without change.

Par. (4). Pub. L. 93-86 added provision that the rules for determining whether corporations and their stockholders may be considered as separate persons shall be in accordance with the regulations issued by the Secretary on December 18, 1970.

PART B—MARKETING QUOTAS

PART REFERRED TO IN OTHER SECTIONS

This part is referred to in sections 1361, 1372 of this title.

SUBPART I—MARKETING QUOTAS—TOBACCO

§ 1311. Legislative findings

(a) The marketing of tobacco constitutes one of the greatest basic industries of the United

States with ramifying activities which directly affect interstate and foreign commerce at every point, and stable conditions therein are necessary to the general welfare. Tobacco produced for market is sold on a Nation-wide market and, with its products, moves almost wholly in interstate and foreign commerce from the producer to the ultimate consumer. The farmers producing such commodity are subject in their operations to uncontrollable natural causes, are widely scattered throughout the Nation, in many cases such farmers carry on their farming operations on borrowed money or leased lands, and are not so situated as to be able to organize effectively, as can labor and industry through unions and corporations enjoying Government protection and sanction. For these reasons among others, the farmers are unable without Federal assistance to control effectively the orderly marketing of such commodity with the result that abnormally excessive supplies thereof are produced and dumped indiscriminately on the Nation-wide market.

(b) The disorderly marketing of such abnormally excessive supplies affects, burdens, and obstructs interstate and foreign commerce by (1) materially affecting the volume of such commodity marketed therein, (2) disrupting the orderly marketing of such commodity therein, (3) reducing the price for such commodity with consequent injury and destruction of interstate and foreign commerce in such commodity, and (4) causing a disparity between the prices for such commodity in interstate and foreign commerce and industrial products therein, with a consequent diminution of the volume of interstate and foreign commerce in industrial products.

(c) Whenever an abnormally excessive supply of tobacco exists, the marketing of such commodity by the producers thereof directly and substantially affects interstate and foreign commerce in such commodity and its products, and the operation of the provisions of this subpart becomes necessary and appropriate in order to promote, foster, and maintain an orderly flow of such supply in interstate and foreign commerce.

(Feb. 16, 1938, ch. 30, title III, § 311, 52 Stat. 45.)

§ 1312. National marketing quota

(a) Proclamation of quota

The Secretary shall, not later than December 1 of any marketing year with respect to flue-cured tobacco, and February 1 of any marketing year with respect to other kinds of tobacco, proclaim a national marketing quota for any kind of tobacco for each of the next three succeeding marketing years whenever he determines with respect to such kind of tobacco—

(1) that a national marketing quota has not previously been proclaimed and the total supply as of the beginning of such marketing year exceeds the reserve supply level therefor;

(2) that such marketing year is the last year of three consecutive years for which marketing quotas previously proclaimed will be in effect;

(3) that amendments have been made in provisions for establishing farm acreage allotments which will cause material revision of such allotments before the end of the period for which quotas are in effect; or

(4) that a marketing quota previously proclaimed for such marketing year is not in effect because of disapproval by producers in a referendum held pursuant to subsection (c) of this section: *Provided,* That if such producers have disapproved national marketing quotas in referenda held in three successive years subsequent to 1952, thereafter a national marketing quota shall not be proclaimed hereunder which would be in effect for any marketing year within the three-year period for which national marketing quotas previously proclaimed were disapproved by producers in a referendum, unless prior to November 10 of the marketing year one-fourth or more of the farmers engaged in the production of the crop of tobacco harvested in the calendar year in which such marketing year begins petition the Secretary, in accordance with such regulations as he may prescribe, to proclaim a national marketing quota for each of the next three succeeding marketing years.

(b) Announcement of amount of quota

The Secretary shall also determine and announce, not later than the first day of December with respect to flue-cured tobacco and not later than the first day of February with respect to other kinds of tobacco, the amount of the national marketing quota proclaimed pursuant to subsection (a) of this section which is in effect for the next marketing year in terms of the total quantity of tobacco which may be marketed which will make available during such marketing year a supply of tobacco equal to the reserve supply level. The amount of the national marketing quota so announced may, not later than the following March 1, be increased by not more than 20 per centum if the Secretary determines that such increase is necessary in order to meet market demands or to avoid undue restrictions of marketings in adjusting the total supply to the reserve supply level.

(c) Referendum on quotas

Within thirty days after the proclamation of national marketing quotas under subsection (a) of this section, the Secretary shall conduct a referendum of farmers engaged in the production of the crop of tobacco harvested immediately prior to the holding of the referendum to determine whether such farmers are in favor of or opposed to such quotas for the next three succeeding marketing years. If more than one-third of the farmers voting oppose the national marketing quotas, such results shall be proclaimed by the Secretary and the national marketing quotas so proclaimed shall not be in effect but such results shall in no wise affect or limit the subsequent proclamation and submission to a referendum, as otherwise provided in this section, of a national marketing quota.

(Feb. 16, 1938, ch. 30, title III, § 312, 52 Stat. 46; Mar. 26, 1938, ch. 54, 52 Stat. 120; Aug. 7, 1939, ch. 562, 563, 53 Stat. 1261; June 13, 1940, ch. 360, §§ 2, 3, 54 Stat. 392; Nov. 22, 1940, ch. 914, §§ 2, 5, 54 Stat. 1209, 1210; Feb. 28, 1942, ch. 123,

56 Stat. 121; July 3, 1948, ch. 827, title II, § 208, 62 Stat. 1257; Aug. 9, 1955, ch. 639, 69 Stat. 557; June 22, 1956, ch. 427, 70 Stat. 330.)

AMENDMENTS

1956—Subsec. (a). Act June 22, 1956, inserted following the words "December 1 of any marketing year" the language "with respect to flue-cured tobacco, and February 1 of any marketing year with respect to other kinds of tobacco".

Subsec. (b). Act June 22, 1956, substituted the language "not later than the first day of December with respect to flue-cured tobacco and not later than the first day of February with respect to other kinds of tobacco" for the words "prior to the first day of December".

1955—Subsec. (a). Act Aug. 9, 1955, restated and amended provisions generally to provide that quotas shall not be proclaimed oftener than once every 3 years for any kind of tobacco for which producers have disapproved marketing quotas in 3 successive years subsequent to 1952 (unless at least one-fourth of the producers of such tobacco petition the Secretary to proclaim quotas).

Subsec. (b). Act Aug. 9, 1955, amended and substituted former provisions of subsec. (a) as to announcement of quota for former provisions of this subsec. as to referendum on quotas.

Subsec. (c). Act Aug. 9, 1955, provided that referendum on quotas which formerly appeared in subsec. (b) should be determinative for the next three succeeding years, rather than each succeeding year, and eliminated provisions as to submission of question of whether tobacco quotas would be favored for a period of three years.

1948—Subsec. (a). Act July 3, 1948, added proviso at the end of the first sentence.

1942—Subsec. (a). Act Feb. 28, 1942, substituted "the following March 1" for "December 31" in the last sentence thereof.

1940—Subsec. (a). Act June 13, 1940, substituted "20" for "10" in last sentence and added last clause.

Subsec. (b), formerly (c) as amended by act June 13, 1940, was redesignated (b) and amended by act Nov. 22, 1940, § 2, which also struck out former subsec. (b). Section 5 of said act Nov. 22, 1940, also amended this section "by striking out subsec. (b) thereof", apparently ignoring the changes effected by section 2 of the act.

Former subsec. (c) was redesignated (b) and amended by act Nov. 22, 1940, § 2.

Former subsecs. (d) to (f) were struck out by act Nov. 22, 1940, § 2.

1939—Subsec. (a). Act Aug. 7, 1939, amended first sentence and added last sentence.

1938—Subsec. (f). Act Mar. 26, 1938, added subsec. (f).

EFFECTIVE DATE OF 1948 AMENDMENT

Amendment of section by act July 3, 1948, effective Jan. 1, 1950, see note set out under section 1301 of this title.

BURLEY TOBACCO MARKETING YEARS 1971, 1972, AND 1973

Pub. L. 92-10, § 4, Apr. 14, 1971, 85 Stat. 27, provided that any action taken by the Secretary pursuant to section 312 of the Agricultural Adjustment Act of 1938, as amended [this section], for burley tobacco for any of the three marketing years beginning October 1, 1971, prior to Apr. 14, 1971, was to be of no effect.

DEFERMENT OF PROCLAMATION OF MARKETING QUOTAS FOR BURLEY TOBACCO

Pub. L. 92-1, Mar. 1, 1971, 85 Stat. 3, provided that, notwithstanding any other provision of law, the Secretary of Agriculture could defer any proclamation under section 312 of the Agricultural Adjustment Act of 1938, as amended [this section], with respect to national marketing quotas for burley tobacco for the three marketing years beginning October 1, 1971, until the date he determined was necessary to permit growers to be notified of their farm marketing quotas and the referendum to be held prior to normal planting time.

EXTENSION OF TIME FOR PROCLAMATION OF MARKETING QUOTAS FOR THREE MARKETING YEARS BEGINNING OCT. 1, 1971

Pub. L. 91-641, Dec. 31, 1970, 84 Stat. 1879 authorized the Secretary of Agriculture to defer until March 1, 1971, any proclamation under this section with respect to national marketing quotas for burley tobacco for the three marketing years beginning October 1, 1971.

FIRE-CURED, DARK AIR-CURED, AND VIRGINIA SUN-CURED TOBACCO; AMOUNT OF PRICE SUPPORT

Section 2 of Joint Res. July 28, 1945, ch. 330, 59 Stat. 506, as amended by Pub. L. 85-92, § 2, July 10, 1957, 71 Stat. 284, which authorized the Commodity Credit Corporation to make loans or other price support available beginning with the 1945 crop, was repealed by Pub. L. 86-389, § 2, Feb. 20, 1960, 74 Stat. 7. See section 1445 of this title.

1956 MARYLAND ALLOTMENTS

Joint Res. Mar. 2, 1956, ch. 80, 70 Stat. 35, provided for increase and redetermination of 1956 Maryland tobacco acreage allotments.

1956 FIRE-CURED AND DARK AIR-CURED TOBACCO ALLOTMENTS

Joint Res. Mar. 2, 1956, ch. 79, 70 Stat. 34, provided for increase and redetermination of 1956 fire-cured and dark air-cured tobacco acreage allotments.

1956 BURLEY ALLOTMENTS

Joint Res. Mar. 2, 1956, ch. 78, 70 Stat. 34, provided for increase and redetermination of 1956 acreage allotments of burley tobacco.

1955-1956 BURLEY TOBACCO QUOTA

Section 1 of act Mar. 31, 1955, ch. 21, 69 Stat. 23, provided for redetermination of the national marketing quota for burley tobacco for the 1955-1956 marketing year.

QUOTAS FOR BURLEY AND FLUE-CURED TOBACCO FOR MARKETING YEARS 1944-45 THROUGH 1947-48

Joint Res. July 7, 1943, ch. 195, 57 Stat. 387, as amended by Joint Res. Mar. 31, 1944, ch. 149, 58 Stat. 136; act Feb. 19, 1946, ch. 31, § 1, 60 Stat. 21, provided for quotas for burley and flue-cured tobacco for marketing years 1944-45 through 1947-48. The second par. of section 1 of said act Feb. 19, 1946 provided that the amendment made by such section to Joint Res. July 7, 1943, should not apply to flue-cured tobacco for the 1946-47 marketing year.

PROCLAMATIONS AFFIRMED

Act Apr. 7, 1938, ch. 107, § 19, 52 Stat. 205, provided that proclamations issued by the Secretary of Agriculture under sections 1312(a), 1327, 1328 and 1345 of this title should be effective as provided in those sections, and no provision of any amendment made by that act should be construed as requiring any further action under section 1312(c) or 1347 of this title with respect to marketing years beginning in 1938.

CROSS REFERENCES

Delegation of regulatory functions of Secretary of Agriculture, see section 450c et seq. of this title.

Referendum on orders regulating handling of commodities, see section 608c of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1301, 1313, 1314c, 1314e of this title.

§ 1313. Apportionment of national marketing quota

(a) Apportionment among States

The national marketing quota for tobacco established pursuant to the provisions of section 1312 of this title, less the amount to be allotted under subsection (c) of this section, shall be apportioned by the Secretary among the several States on the basis of the total production of tobacco in each State during the five calendar years immediately preceding the calendar year in which the quota is proclaimed (plus, in applicable years, the normal production on the acreage diverted under previous agricultural adjustment and conservation programs), with such adjustments as are determined to be necessary to make correction for abnormal conditions of production, for small farms, and for trends in production, giving due consideration to seed bed and other plant diseases during such five-year period. Notwithstanding any other provision of this section and section 1312 of this title, except the provisions in subsection (g) of this section relating to reduction of allotments, for any of the three marketing years, 1941-1942 to 1943-1944, in which a national marketing quota is in effect for burley or flue-cured tobacco, such national marketing quota shall not be reduced below the 1940-1941 national marketing quota by more than 10 per centum and the farm-acreage allotments (other than allotments established in each year under subsection (g) of this section for farms on which no tobacco was produced in the last five years) shall be determined by increasing or decreasing the farm-acreage allotments established in the last preceding year in which marketing quotas were in effect in the same ratio as such national marketing quota is increased or decreased above or below the last preceding national marketing quota: *Provided,* That in the case of flue-cured tobacco no allotment shall be decreased below the 1940 allotment if such allotment was two acres or less, and in the case of burley tobacco no allotment shall be decreased below the 1939 allotment if such allotment was one-half acre or less, or below the 1940 allotment if such allotment was over one-half acre and not over one acre: *And provided further,* That an additional acreage not in excess of 2 per centum of the total acreage allotted to all farms in each State in 1940 shall be allotted by the local committees, without regard to the ratio aforesaid, among farms in the State in accordance with regulations prescribed by the Secretary so as to establish allotments which the committees find will be fair and equitable in relation to the past acreage of tobacco (harvested and diverted); land, labor, and equipment available for the production of tobacco; and crop-rotation practices: *And provided further,* That the burley tobacco acreage allotment which would otherwise be established for any farm having a burley acreage allotment in 1942 shall not be less than one-half acre, and the acreage required for apportionment under this proviso shall be in addition to the National and State acreage allotments.

(b) Allotment of quota among producing farms

The Secretary shall provide, through the local committees, for the allotment of the marketing quota for any State among the farms on which tobacco is produced, on the basis of the following: Past marketing of tobacco, making due allowance for drought, flood, hail, other abnormal weather conditions, plant bed, and other diseases; land, labor, and equipment available for the production of tobacco; crop-rotation practices; and the soil and other physical factors affecting the production of tobacco: *Provided,* That, except for farms on which for the first time in five years tobacco is produced to be marketed in the marketing year for which the quota is effective, the marketing quota for any farm shall not be less than the smaller of either (1) three thousand two hundred pounds, in the case of flue-cured tobacco, and two thousand four hundred pounds, in the case of other kinds of tobacco, or (2) the average tobacco production for the farm during the preceding three years, plus the average normal production of any tobacco acreage diverted under agricultural adjustment and conservation programs during such preceding three years.

(c) Allotment to previous nonproducing farms and small farms

The Secretary shall provide, through local committees, for the allotment of not in excess of 5 per centum of the national marketing quota (1) to farms in any State whether it has a State quota or not on which for the first time in five years tobacco is produced to be marketed in the year for which the quota is effective and (2) for further increase of allotments to small farms pursuant to the proviso in subsection (b) of this section on the basis of the following: Land, labor, and equipment available for the production of tobacco; crop-rotation practices; and the soil and other physical factors affecting the production of tobacco: *Provided,* That farm marketing quotas established pursuant to this subsection for farms on which tobacco is produced for the first time in five years shall not exceed 75 per centum of the farm marketing quotas established pursuant to subsection (b) of this section for farms which are similar with respect to the following: Land, labor, and equipment available for the production of tobacco, crop-rotation practices, and the soil and other physical factors affecting the production of tobacco.

(d) Transfer of farm marketing quotas

Farm marketing quotas may be transferred only in such manner and subject to such conditions as the Secretary may prescribe by regulations.

(e) Quota for 1938; minimum State allotments

In case of flue-cured tobacco, the national quota for 1938 is increased by a number of pounds required to provide for each State in addition to the State poundage allotment a poundage not in excess of 4 per centum of the allotment which shall be apportioned in amounts which the Secretary determines to be fair and reasonable to farms in the State receiving allotments under this chapter which the Secretary determines are inadequate in view of past production of tobacco, and for each year by a number of pounds sufficient to assure that any State receiving a State poundage allotment of flue-cured tobacco shall receive a minimum State poundage allotment of flue-cured tobacco equal to the average national yield for the pre-

ceding five years of five hundred acres of such tobacco.

(f) Increase of 1938 quota

In the case of fire-cured and dark air-cured and burley tobacco, the national quota for 1938 is increased by a number of pounds required to provide for each State in addition to the State poundage allotment a poundage not in excess of 2 per centum of the allotment which shall be apportioned in amounts which the Secretary determines to be fair and reasonable to farms in the State receiving allotments under this section which the Secretary determines are inadequate in view of past production of tobacco.

(g) Conversion of national marketing quota into national acreage allotment

Notwithstanding any other provision of this section, the Secretary may convert the national marketing quota into a national acreage allotment by dividing the national marketing quota by the national average yield for the five years immediately preceding the year in which the national marketing quota is proclaimed, and may apportion the national acreage allotment, less a reserve of not to exceed 1 per centum thereof for new farms, for making corrections in old farm acreage allotments, and for adjusting inequities in old farm acreage allotments, through the local committees among farms on the basis of the factors set forth in subsection (b) of this section, using past farm acreage and past farm acreage allotments for tobacco in lieu of past marketing of tobacco; and the Secretary on the basis of the factors set forth in subsection (c) of this section and the past tobacco experience of the farm operator, shall through the local committees allot that portion of the national acreage allotment reserved for new farms among farms on which no tobacco was produced or considered produced during the last five years. Any acreage of tobacco harvested in excess of the farm acreage allotment for the year 1955, or any subsequent crop shall not be taken into account in establishing State and farm acreage allotments. Except for farms last mentioned or a farm operated, controlled, or directed by a person who also operates, controls, or directs another farm on which tobacco is produced, the farm-acreage allotment shall be increased by the smaller of (1) 20 per centum of such allotment or (2) the percentage by which the normal yield of such allotment (as determined through the local committees in accordance with regulations prescribed by the Secretary) is less than three thousand two hundred pounds, in the case of flue-cured tobacco, and two thousand four hundred pounds in the case of other kinds of tobacco: *Provided*, That the normal yield of the estimated number of acres so added to farm acreage allotments in any State shall be considered as a part of the State marketing quota in applying the proviso in subsection (a) of this section. The actual production of the acreage allotment established for a farm pursuant to this subsection shall be the amount of the farm marketing quota. If any amount of tobacco shall be marketed as having been produced on the acreage allotment for any farm which in fact was produced on a different farm, the acreage allotments next established for both such farms shall be reduced by that percentage which such amount was of the respective farm marketing quota, except that such reduction for any such farm shall not be made if the Secretary through the local committees finds that no person connected with such farm caused, aided, or acquiesced in such marketing; and if proof of the disposition of any amount of tobacco is not furnished as required by the Secretary or if any producer on the farm files, or aids or acquiesces in the filing of, any false report with respect to the acreage of tobacco grown on the farm required by regulations issued pursuant to this chapter, the acreage allotment next established for the farm on which such tobacco is produced shall be reduced by a percentage similarly computed. If in any calendar year more than one crop of tobacco is grown from (1) the same tobacco plants or (2) different tobacco plants, and is harvested for marketing from the same acreage of a farm, the acreage allotment next established for such farm shall be reduced by an amount equivalent to the acreage from which more than one crop of tobacco has been so grown and harvested.

(h) Repealed. Feb. 16, 1938, ch. 30, title III, § 378 (d), as added Pub. L. 85–835, title V, § 501, Aug. 28, 1958, 72 Stat. 996

(i) Increase of marketing quotas and acreage allotments to meet demand

Notwithstanding any other provision of this chapter, whenever after investigation the Secretary determines with respect to any kind of tobacco that a substantial difference exists in the usage or market outlets for any one or more of the types comprising such kind of tobacco and that the quantity of tobacco of such type or types to be produced under the marketing quotas and acreage allotments established pursuant to this section would not be sufficient to provide an adequate supply for estimated market demands and carry-over requirements for such type or types of tobacco, the Secretary shall increase the marketing quotas and acreage allotments for farms producing such type or types of tobacco in the preceding year to the extent necessary to make available a supply of such type or types of tobacco adequate to meet such demands and carry-over requirements. The increases in farm marketing quotas and acreage allotments shall be made on the basis of the production of such type or types of tobacco during the period of years considered in establishing farm marketing quotas and acreage allotments for such kind of tobacco. The additional production authorized by this subsection shall be in addition to the national marketing quota established for such kind of tobacco pursuant to section 1312 of this title. The increase in acreage under this subsection shall not be considered in establishing future State or farm acreage allotments.

(j) Tobacco acreage allotments for 1956, 1957, and 1958

In establishing farm acreage allotments for burley tobacco crops for the years 1956, 1957, and 1958 the acreage allotment for any farm which has not been retired from agricultural production shall not be reduced below the acreage allotment which would otherwise be established because the harvested acreage was less than the allotted acreage unless the acreage

harvested was less than 50 per centum of the allotted acreage in each of the preceding five years, in which event it shall not be reduced for such reason to less than the largest acreage harvested in any year in such five-year period.

(j) [1] Old farm tobacco acreage allotment.

The production of tobacco on a farm in 1955 or any subsequent year for which no farm acreage allotment was established shall not make the farm eligible for an allotment as an old farm under subsections (b) and (g) of this section or section 1314c of this title: *Provided, however,* That by reason of such production the farm need not be considered as ineligible for a new farm allotment under subsections (c) and (g) of this section or section 1314c of this title, but such production shall not be deemed past tobacco experience for any producer on the farm.

(Feb. 16, 1938, ch. 30, title III, § 313, 52 Stat. 47; Apr. 7, 1938, ch. 107, § 5, 52 Stat. 202; May 31, 1938, ch. 292, § 2, 52 Stat. 586; Aug. 7, 1939, ch. 564, 53 Stat. 1261; June 13, 1940, ch. 360, § 4, 54 Stat. 392; Feb. 6, 1942, ch. 44, § 1, 56 Stat. 51; Apr. 29, 1943, ch. 80, 57 Stat. 69; Oct. 17, 1951, ch. 511, 65 Stat. 422; Mar. 31, 1955, ch. 21, §§ 3, 4, 69 Stat. 24; Aug. 11, 1955, ch. 789, 69 Stat. 670; Aug. 11, 1955, ch. 799, 69 Stat. 684; July 2, 1958, Pub. L. 85-489, § 1, 72 Stat. 291; Feb. 16, 1938, ch. 30, title III, § 378(d), as added Aug. 28, 1958, Pub. L. 85-835, title V, § 501, 72 Stat. 996; Apr. 16, 1965, Pub. L. 89-12, § 2, 79 Stat. 72; Oct. 12, 1967, Pub. L. 90-106, 81 Stat. 275.)

AMENDMENTS

1967—Subsec. (g). Pub. L. 90-106 changed the manner in which tobacco acreage allotments are computed by providing for conversion of the national marketing quota for tobacco into a national acreage allotment to be apportioned among farms instead of apportioning the national quota among the states, based on past state production, and then converting into state acreage allotments for apportionment among farms.

1965—Subsec. (j). Pub. L. 89-12 inserted in old farm tobacco acreage allotment provisions reference to section 1314c of this title in two instances.

1958—Subsec. (g). Pub. L. 85-489 required reduction of acreage allotment if in any calendar year more than one crop of tobacco is grown from the same tobacco plants or different tobacco plants, and is harvested for marketing from the same acreage of a farm.

Subsec. (h). Act Feb. 16, 1938, § 378(d), as added by Pub. L. 85-835, repealed subsec. (h), which related to adjustment of allotment upon acquisition of part of farms by United States for defense.

1955—Subsec. (g). Act Mar. 31, 1955, §§ 3, 4, provided that excess tobacco acreage for the years 1955 and thereafter should not be taken into consideration as part of the farm history in establishing future acreage allotments, and that if a producer makes a false report of the acreage of tobacco grown on his farm, the amount of the misstatement should be deducted from his next year's allotment.

Subsec. (j). Act Aug. 11, 1955, ch. 789, added subsec. (j), relating to tobacco acreage allotments for 1956, 1957, and 1958.

Act Aug. 11, 1955, ch. 799, added subsec. (j), relating to old farm tobacco acreage allotment.

1951—Subsec. (i). Act Oct. 17, 1951, added subsec. (i).

1943—Subsec. (a). Act Apr. 29, 1943, added proviso beginning "That the Burley tobacco acreage".

1942—Subsec. (h). Act Feb. 6, 1942, added subsec. (h).

1940—Subsec. (a). Act June 13, 1940, added all following first sentence.

[1] So in original. Probably should be subsec. (k).

1939—Subsec. (g). Act. Aug. 7, 1939, added subsec. (g).

1938—Subsec. (a). Act Apr. 7, 1938, struck out "net".

Subsec. (e). Act May 31, 1938, substituted "4 per centum" for "2 per centum".

Act Apr. 7, 1938, added subsec. (e).

Subsec. (f). Act May 31, 1938, added subsec. (f).

EFFECTIVE DATE OF 1958 AMENDMENT

Section 2 of Pub. L. 85-489 provided that: "The amendment made by this Act [to subsec. (g) of this section] shall become effective beginning with the 1958 crop of tobacco".

SAVINGS CLAUSE

Transfer or reassignment of allotment as remaining in effect and ineligibility of displaced farm owner for additional allotment notwithstanding repeal of subsec. (h), see note under section 1378 of this title.

INCREASE OF MARKETING QUOTAS AND ACREAGE ALLOTMENTS TO MEET DEMAND UNAFFECTED BY ACREAGE-POUNDAGE MARKETING QUOTAS AND PRICE SUPPORT PROVISIONS

Authority or responsibility of Secretary of Agriculture under subsec. (i) of this section with respect to increasing allotments or quotas for farms producing certain types of tobacco unaffected by acreage-poundage quotas and price support provisions, see note set out under section 1314c of this title.

FIRE-CURED, DARK AIR-CURED AND VIRGINIA SUN-CURED TOBACCO

Amount of price support for fire-cured, dark air-cured, and Virginia sun-cured tobacco, see note set out under section 1312 of this title.

APPORTIONMENT OF BURLEY ACREAGE ALLOTMENT

Joint Res. Mar. 31, 1944, ch. 149, 58 Stat. 136, provided that notwithstanding the provisions of this section the burley tobacco acreage allotment which would otherwise be established for any farm having a burley acreage allotment in 1943 should be less than one acre, or 25 per centum of the cropland, whichever is the smaller, and the acreage required for apportionment under the resolution should be in addition to the National and State acreage allotments.

CROSS REFERENCES

Agreements for adjustment of acreage or production of basic agricultural commodities, see section 608 et seq. of this title.

Delegation of regulatory functions of Secretary of Agriculture, see section 450c et seq. of this title.

Sugar quotas, see section 1111 et seq. of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1314c of this title.

§ 1314. Penalties

(a) Persons liable

The marketing of any kind of tobacco in excess of the marketing quota for the farm on which the tobacco is produced shall be subject to a penalty of 75 per centum of the average market price (calculated to the nearest whole cent) for such kind of tobacco for the immediately preceding marketing year. Such penalty shall be paid by the person who acquired such tobacco from the producer but an amount equivalent to the penalty may be deducted by the buyer from the price paid to the producer in case such tobacco is marketed by sale; or, if the tobacco is marketed by the producer through a warehouseman or other agent, such penalty shall be paid by such warehouseman or

agent who may deduct an amount equivalent to the penalty from the price paid to the producer: *Provided,* That in case any tobacco is marketed directly to any person outside the United States the penalty shall be paid and remitted by the producer. If any producer falsely identifies or fails to account for the disposition of any tobacco, an amount of tobacco equal to the normal yield of the number of acres harvested in excess of the farm-acreage allotment shall be deemed to have been marketed in excess of the marketing quota for the farm, and the penalty in respect thereof shall be paid and remitted by the producer. Tobacco carried over by the producer thereof from one marketing year to another may be marketed without payment of the penalty imposed by this section if the total amount of tobacco available for marketing from the farm in the marketing year from which the tobacco is carried over did not exceed the farm marketing quota established for the farm for such marketing year (or which would have been established if marketing quotas had been in effect for such marketing year), or if the tobacco so carried over does not exceed the normal production of that number of acres by which the harvested acreage of tobacco in the calendar year in which the marketing year begins is less than the farm-acreage allotment. Tobacco produced in a calendar year in which marketing quotas are in effect for the marketing year beginning therein shall be subject to such quotas even though it is marketed prior to the date on which such marketing year begins.

(b) Collection and deposit

The Secretary shall require collection of the penalty upon a proportion of each lot of tobacco marketed from the farm equal to the proportion which the tobacco available for marketing from the farm in excess of the farm marketing quota is of the total amount of tobacco available for marketing from the farm if satisfactory proof is not furnished as to the disposition to be made of such excess tobacco prior to the marketing of any tobacco from the farm. All funds collected pursuant to this section shall be deposited in a special deposit account with the Treasurer of the United States until the end of the marketing year next succeeding that in which the funds are collected, and upon certification by the Secretary there shall be paid out of such special deposit account to persons designated by the Secretary the amount by which the penalty collected exceeds the amount of penalty due upon tobacco marketed in excess of the farm marketing quota for any farm. Such special account shall be administered by the Secretary, and the basis for, the amount of, and the person entitled to receive a payment from such account, when determined in accordance with regulations prescribed by the Secretary, shall be final and conclusive.

(Feb. 16, 1938. ch. 30, title III, § 314, 52 Stat. 48; Aug. 7, 1939, ch. 565, 53 Stat. 1262; June 13, 1940, ch. 360, § 5, 54 Stat. 393; Feb. 19, 1946, ch. 31, § 2, 60 Stat. 21; June 22, 1954, ch. 339, 68 Stat. 270; Mar. 31, 1955, ch. 21, § 5, 69 Stat. 24.)

AMENDMENTS

1955—Subsec. (a). Act Mar. 31, 1955, in first sentence, substituted "75 per centum" for "50 per centum".

1954—Subsec. (a). Act June 22, 1954, in first sentence, substituted "50 per centum" for "40 per centum".

1946—Subsec. (a). Act Feb. 19, 1946, deleted "10 cents per pound in the case of flue-cured, Maryland, or Burley tobacco and 5 cents per pound in the case of all other kinds of tobacco." and inserted in lieu thereof "40 per centum of the average market price (calculated to the nearest whole cent) for such kind of tobacco for the immediately preceding marketing year" in the first sentence.

1940—Act June 13, 1940, divided section into lettered subsections, added last three sentences to subsection (a) and added subsection (b).

1939—Subsec. (a). Act Aug. 7, 1939, struck out first sentence and inserted in lieu thereof new sentence "The marketing of any tobacco in excess of the marketing quota for the farm on which the tobacco is produced shall be subject to a penalty of 10 cents per pound in the case of flue-cured, Maryland, or Burley tobacco and 5 cents per pound in the case of all other kinds of tobacco".

EFFECTIVE DATE OF 1955 AMENDMENT

Act Mar. 31, 1955, which amended subsec. (a) of this section, provided in part that such amendment shall be "effective July 1, 1955, with respect to flue-cured tobacco, and Oct. 1, 1955, with respect to other kinds of tobacco".

EFFECTIVE DATE OF 1954 AMENDMENT

Act June 22, 1954, which amended subsec. (a) of this section, provided in part that such amendment shall "become effective October 1, 1954, except that in the case of flue-cured tobacco such amendment shall become effective July 1, 1955".

EFFECTIVE DATE OF 1946 AMENDMENT

The second par. of section 2 of act Feb. 19, 1946, provided: "The amendment made by this section shall become effective July 1, 1946, except that in the case of flue-cured tobacco such amendment shall become effective May 1, 1947."

REVISION OF THIRD SENTENCE AND APPLICATION OF FOURTH SENTENCE OF SUBSEC. (a) DURING ACREAGE POUNDAGE QUOTA PERIODS

Section 317(g)(2), (3) of act Feb. 16, 1938, as added by Pub. L. 89-12, § 1, Apr. 16, 1965, 79 Stat. 71, and classified to section 1314c(g)(2), (3) of this title, provided that:

"(2) When marketing quotas established under this section [section 1314c of this title] are in effect the provisions with respect to penalties contained in the third sentence of subsection 314(a) [subsec. (a) of this section] shall be revised to read: 'If any producer falsely identifies or fails to account for the disposition of any tobacco, the Secretary, in lieu of assessing and collecting penalties based on actual marketings of excess tobacco, may elect to assess a penalty computed by multiplying the full penalty rate by an amount of tobacco equal to 25 per centum of the farm marketing quota plus the farm yield of the number of acres harvested in excess of the farm acreage allotment and the penalty in respect thereof shall be paid and remitted by the producer'.

"(3) For the first year a marketing quota program established under the provisions of this section [section 1314c of this title] is in effect, the words 'normal production' where they appear in the fourth sentence of subsection (a) of such section [subsec. (a) of this section] shall be read 'farm yield' and the said fourth sentence shall otherwise be applicable. For the second and succeeding years for which a program established under the provisions of this section [section 1314c of this title] is in effect, the provisions of subsection (a)(8) [section 1314c(a)(8) of this title] shall apply when penalties, if any, on carryover tobacco are computed, and the provisions contained in the fourth sentence of

subsection 314(a) [subsec. (a) of this section] shall not be applicable."

REVISION OF THIRD SENTENCE AND APPLICATION OF FOURTH SENTENCE OF SUBSEC. (a) DURING BURLEY TOBACCO POUNDAGE QUOTA PERIODS

Section 319(i)(2), (3) of act Feb. 16, 1938, as added by Pub. L. 92-10, § 1, Apr. 14, 1971, 85 Stat. 23, and classified to section 1314e(i)(2), (3) of this title, provided that:

"(2) The provisions with respect to penalties contained in the third sentence of section 1314(a) of this title shall be revised to read: 'If any producer falsely identifies or fails to account for the disposition of any tobacco, the Secretary, in lieu of assessing and collecting penalties based on actual marketings of excess tobacco, may elect to assess a penalty computed by multiplying the full penalty rate by an amount of tobacco equal to 25 per centum of the farm marketing quota (after adjustments) and the penalty in respect thereof shall be paid and remitted by the producer'.

"(3) The provisions contained in the fourth sentence of section 1314(a) of this title shall not be applicable. For the first year a marketing quota program established under the provisions of this section [section 1314e of this title] is in effect, the farm marketing quota determined under the provisions of subsection (e) of this section shall receive a temporary upward adjustment equal to the amount of carryover penalty-free burley tobacco for the farm. For subsequent years, the provisions of subsection (c) of this section shall apply."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1314c, 1314e, 1445 of this title.

§ 1314a. Repealed. Pub. L. 90-51, § 2, July 7, 1967, 81 Stat. 121

Section, act Feb. 16, 1938, ch. 30, title III, § 315, as added Aug. 21, 1958, Pub. L. 85-705, 72 Stat. 703, provided for a referendum among producers of type 21 (Virginia) fire-cured tobacco and type 37 Virginia sun-cured tobacco on the question of a single combined tobacco acreage allotment and provided for the establishment and subsequent increases and decreases in the allotments. See section 1314d of this title.

§ 1314b. Leases of tobacco acreage allotments or quotas

(a) Conditions for permission from Secretary; burley tobacco exception

Notwithstanding any other provision of law, the Secretary, if he determines that it will not impair the effective operation of the tobacco marketing quota or price support program, may permit the owner and operator of any farm for which a tobacco acreage allotment (other than a Burley, dark air-cured, fire-cured, Virginia sun-cured and cigar-binder, type 54 or 55 tobacco acreage allotment) is established under this chapter to lease all or any part of such allotment or quota to any other owner or operator of a farm in the same county for use in such county on a farm having a current tobacco allotment or quota of the same kind.

(b) Term of years; terms and conditions

Any lease may be made for such term of years not to exceed five as the parties thereto agree, and on such other terms and conditions, except as otherwise provided in this section, as the parties thereto agree.

(c) Filing with county committees; determination of compliance with requirements; calculation of normal yield for transfer

The lease and transfer of any allotment shall not be effective until a copy of such lease is filed with and determined by the county committee of the county in which the farms involved are located to be in compliance with the provisions of this section. Any lease of Flue-cured tobacco acreage-poundage marketing quotas from any farm with an acreage-poundage marketing quota in excess of 2,000 pounds filed on or after June 15 in any year shall not be effective unless the acreage planted on both the lessor and lessee farms during the current marketing year was as much as 50 per centum of the farm acreage allotment in effect for such year. If the normal yield established by the county committee for the farm to which the allotment is transferred does not exceed the normal yield established by the county committee for the farm from which the allotment is transferred by more than 10 per centum, the lease and transfer shall be approved acre for acre. If the normal yield for the farm to which the allotment is transferred exceeds the normal yield for the farm from which the allotment is transferred by more than 10 per centum, the county committee shall make a downward adjustment in the amount of the acreage allotment transferred by multiplying the normal yield established for the farm from which the allotment is transferred by the acreage being transferred and dividing the result by the normal yield established by the farm to which the allotment is transferred.

(d) Allotments for other years unaffected; inclusion of amount in transferrors' plantings; referendum voting rights

The lease and transfer of any part of a tobacco acreage allotment determined for a farm shall not affect the allotment for the farm from which such acreage allotment is transferred or the farm to which it is transferred, except with respect to the crop year specified in the lease. The amount of acreage allotment which is leased from a farm shall be considered for purpose of determining future allotments to have been planted to tobacco on the farm from which such allotment is transferred and the production pursuant to the lease and transfer shall not be taken into account in establishing allotments for subsequent years for the farm to which such allotment is transferred. The lessor shall be considered to have been engaged in the production of tobacco for the purpose of eligibility to vote in the referendum.

(e) Limitation on amount of acreage allotment

The total acreage allotted to any farm after the transfer by lease of tobacco acreage allotment to the farm under the provisions of this section shall not exceed 50 per centum of the acreage of cropland in the farm: *Provided*, That in the case of cigar-filler tobacco types 42, 43, or 44, not more than 10 acres of allotment may be leased and transferred to any farm.

(f) Regulations

The Secretary shall prescribe such regulations as he considers necessary for carrying out the provisions of this section.

(g) Georgia and South Carolina disaster areas; emergency allotment leases and transfers for 1973

Notwithstanding any provision of this section, when as a result of flood, hail, wind, tornado, or other natural disaster the Secretary determines (1) that one of the counties hereinafter listed has suffered a loss of 10 per centum or more in the number of acres of tobacco planted and (2) that a lease of such tobacco allotment or quota will not impair the effective operation of the tobacco marketing quota or price support program, he may permit the owner and operator of any farm within Atkinson, Bacon, Berrien, Clinch, Cook, Lanier, Lowndes, or Ware Counties, Georgia, or Clarendon, Lee, Sumter, or Williamsburg Counties, South Carolina, which has suffered a loss of 30 per centum or more in the number of acres of tobacco planted of such crop to lease all or any part of such allotment or quota to any other owners or operators in the same county, or nearby counties within the same State, for use in such counties for the year 1973 on a farm or farms having a current tobacco allotment or quota of the same kind. In the case of a lease and transfer to an owner or operator in another county pursuant to this subsection, the lease and transfer shall not be effective until a copy of the lease is filed with and determined by the county committee of the county to which the transfer is made to be in compliance with the provisions of this subsection.

(h) North Carolina disaster areas; emergency allotment leases and transfers for 1974

Notwithstanding any provision of this section, when as a result of drought, flood, damage due to excessive rain, hail, wind, tornado, or other natural disaster, the Secretary determines (1) that one of the counties hereinafter listed has suffered a loss of 10 per centum or more in the number of acres of tobacco planted, and (2) that a lease of such tobacco allotment or quota will not impair the effective operation of the tobacco marketing quota or price support program, he may permit the owner and operator of any farm within Craven, Carteret and Jones Counties, North Carolina, which has suffered a loss of 10 per centum or more in the number of acres of tobacco planted of such crop to lease all or any part of such allotment or quota to any other owners or operators in the same county, or nearby counties within the same State, for use in such counties for the year 1974 on a farm or farms having a current tobacco allotment or quota of the same kind. In the case of a lease and transfer to an owner or operator in another county pursuant to this subsection, the lease and transfer shall not be effective until a copy of the lease is filed with and determined by the county committee of the county to which the transfer is made to be in compliance with the provisions of this subsection.

(i) Georgia and South Carolina disaster areas; emergency allotment leases and transfers for 1976

Notwithstanding any provision of this section, when as a result of drought, flood, damage due to excessive rain, hail, wind, tornado, or other natural disaster, the Secretary determines (1) that one of the counties in South Carolina or Georgia has suffered a loss of 10 per centum or more in the number of acres of tobacco planted (or expected production from the planted acreage), and (2) that a lease of such tobacco allotment or quota will not impair the effective operation of the tobacco marketing quota or price support program, he may permit the owner and operator of any farm within a designated county which has suffered a loss of 10 per centum or more in the number of acres of tobacco planted (or expected production from the planted acreage) of such crop to lease all or any part of such allotment or quota to any other owners or operators in the same county, or other counties within the same State, for use in such counties for the year 1976 on a farm or farms having a current tobacco allotment or quota of the same kind. In the case of a lease and transfer to an owner or operator in another county pursuant to this subsection, the lease and transfer shall not be effective until a copy of the lease is filed with and determined by the county committee of the county to which the transfer is made to be in compliance with the provisions of the subsection.

(Feb. 16, 1938, ch. 30, title III, § 316, as added Sept. 6, 1961, Pub. L. 87-200, 75 Stat. 469, and amended July 10, 1962, Pub. L. 87-530, 76 Stat. 151; Oct. 15, 1962, Pub. L. 87-824, 76 Stat. 947; July 19, 1963, Pub. L. 88-68, 77 Stat. 81; July 30, 1963, Pub. L. 88-80, 77 Stat. 114; Aug. 20, 1964, Pub. L. 88-469, §§ 1, 2, 78 Stat. 581; May 27, 1965, Pub. L. 89-29, 79 Stat. 118; Nov. 3, 1965, Pub. L. 89-321, title VII, § 703, 79 Stat. 1210; June 24, 1966, Pub. L. 89-471, 80 Stat. 220; Mar. 29, 1967, Pub. L. 90-6, 81 Stat. 6; June 7, 1967, Pub. L. 90-52, 81 Stat. 121; Oct. 11, 1968, Pub. L. 90-559, § 1(1), 82 Stat. 996; June 19, 1970, Pub. L. 91-284, §§ 1-4, 84 Stat. 314; June 6, 1972, Pub. L. 92-311, 86 Stat. 215; Aug. 1, 1973, Pub. L. 93-80, 87 Stat. 178; Oct. 24, 1974, Pub. L. 93-464, 88 Stat. 1416; Oct. 1, 1976, Pub. L. 94-445, 90 Stat. 1489.)

AMENDMENTS

1976—Subsec. (i). Pub. L. 94-445 added subsec. (i).

1974—Subsec. (h) Pub. L. 93-464 added subsec. (h).

1973—Subsec. (g). Pub. L. 93-80 added subsec. (g).

1972—Subsec. (c). Pub. L. 92-311 substituted provisions that leases of Flue-cured tobacco acreage-poundage marketing quotas from any farm with an acreage-poundage marketing quota in excess of 2,000 pounds filed on or after June 15 in any year will not be effective unless the acreage planted on lessor and lessee farms during that year was 50 per centum of the farm acreage allotment in effect for such year, for provisions that such lease and transfer shall not be effective unless a copy of the lease was filed with the county committee prior to a closing date, not later than the normal planting time in the county, established by the Secretary.

1970—Subsec. (a). Pub. L. 91-284, § 1, authorized leases without limitation to crop years 1962 through 1970, prescribed conditions for permission from Secretary, substituted as excepted from allotment "Burley, dark air-cured, fire-cured, Virginia sun-cured and cigar-binder, type 54 or 55 tobacco acreage allotment" for "Burley tobacco acreage allotment or a cigar-filler and cigar binder (types 42, 43, 44, 53, 54, and 55) tobacco acreage allotment", authorized lease of all of such allotment or quota, and deleted provision for recognition and consideration of lease and transfer of allotment as valid by the county committee upon compliance with conditions of this section.

Subsec. (b). Pub. L. 91-284, § 2, provided for execution of leases for term of years not exceeding five rather than on an annual basis.

Subsec. (e). Pub. L. 91-284, § 3, prescribed 10 acre limitation on the amount of cigar-filler tobacco types 42, 43, or 44 allotment acreage which may be leased and transferred to any farm.

Subsec. (g). Pub. L. 91-284, § 4, repealed provision for filing of leases for 1965 crop year.

1968—Subsec. (a). Pub. L. 90-559 provided for a one year extension through 1970.

1967—Subsec. (a). Pub. L. 90-6 struck out the provision which restricted the leasing and transferring of a Maryland tobacco allotment unless at least 75 percent of the allotment for the farm had been actually planted on such farm during each of the two immediately preceding years.

Subsec. (e). Pub. L. 90-52 removed the 5 acre limitation on the amount of tobacco allotment acreage which may be leased and transferred to any farm.

1966—Subsec. (c). Pub. L. 89-471 added proviso which allowed the lease and transfer of an allotment notwithstanding the failure to file a copy of the lease with the county committee prior to the closing date if the Secretary finds that the lease was agreed upon prior to the closing date and the terms of the lease are reduced to writing and filed not later than the 31st day of July of the crop year to which the lease relates.

1965—Subsec. (a). Pub. L. 89-321 extended from 1965 to 1969 the lease privilege for tobacco acreage allotments as well as the prohibition against lease eligibility for Maryland tobacco acreage allotments unless at least 75 per centum of the allotment for the farm was actually planted on such farm during each of the two immediately preceding years.

Subsec. (g). Pub. L. 89-29 substituted "1965 crop year" for "1964 crop year" and "June 15, 1965" for "June 15, 1964", and changed the date of filing from within twenty days of August 20, 1964, to within twenty days of May 27, 1965.

1964—Subsec. (g). Pub. L. 88-469, § 1, substituted "1964 crop year" for "1962 crop year" and "June 15, 1964" for "June 15, 1962", and changed the date of filing from within twenty days of July 10, 1962 to within twenty days of August 20, 1964.

Subsec. (h). Pub. L. 88-469, § 2, repealed former subsec. (h) which related to the filing of leases for the 1963 crop year.

1963—Subsec. (a). Pub. L. 88-68, § 1(1), extended to crop years 1964 and 1965 provisions permitting lease of tobacco acreage allotments, substituted "or" for ", and for the 1963 crop year, other than", inserted "1962 or 1963" preceding "allotment" in the Maryland tobacco provision and precluded the leasing of 1964 or 1965 Maryland tobacco allotment from the farm unless at least 75 per centum of the allotment for the farm was actually planted on such farm during each of the two immediately preceding years.

Subsec. (b). Pub. L. 88-68, § 1(2), required annual basis for leases and eliminated provisions against leases for any period exceeding 1 year and for renewal of 1963 crop year leases, except renewal of 1963 crop year leases for cigar-filler and cigar-binder (types 42, 43, 44, 53, 54, and 55).

Subsec. (h). Pub. L. 88-80 added subsec. (h).

1962—Subsec. (a). Pub. L. 87-824 excepted for the 1963 crop year cigar-filler and cigar-binder (types 42, 43, 44, 53, 54, and 55) tobacco acreage allotments.

Subsec. (b). Pub. L. 87-824 inserted proviso prohibiting renewal of lease for 1963 for cigar-filler and cigar-binder (types 42, 43, 44, 53, 54, and 55) tobacco.

Subsec. (g). Pub. L. 87-530 added subsec. (g).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1314c, 1316 of this title.

§ 1314c. Acreage-poundage quotas

(a) Definitions

For purposes of this section—

(1) "National marketing quota" for any kind of tobacco for a marketing year means the amount of the kind of tobacco produced in the United States which the Secretary estimates will be utilized during the marketing year in the United States and will be exported during the marketing year, adjusted upward or downward in such amount as the Secretary, in his discretion, determines is desirable for the purpose of maintaining an adequate supply or for effecting an orderly reduction of supplies to the reserve supply level. Any such downward adjustment shall not exceed 15 per centum of such estimated utilization and exports.

(2) "National average yield goal" for any kind of tobacco means the yield per acre which on a national average basis the Secretary determines will improve or insure the usability of the tobacco and increase the net return per pound to the growers. In making this determination the Secretary shall give consideration to such Federal-State production research data as he deems relevant.

(3) "National acreage allotment" means the acreage determined by dividing the national marketing quota by the national average yield goal.

(4) "Farm acreage allotment" for a tobacco farm, other than a new tobacco farm, means the acreage allotment determined by adjusting uniformly the acreage allotment established for such farm for the immediately preceding year, prior to any increase or decrease in such allotment due to undermarketings or overmarketings and prior to any reduction under subsection (f) of this section, so that the total of all allotments is equal to the national acreage allotment less the reserve provided in subsection (e) of this section with a further downward or upward adjustment to reflect any adjustment in the farm marketing quota for overmarketing or undermarketing and to reflect any reduction required under subsection (f) of this section, and including any adjustment for errors or inequities from the reserve. In determining farm acreage allotments for Flue-cured tobacco for 1965, the 1965 farm allotment determined under section 1313 of this title shall be adjusted in lieu of the acreage allotment for the immediately preceding year.

(5) The "community average yield" means for Flue-cured tobacco the average yield per acre in the community designated by the Secretary as a local administrative area under the provisions of section 590h(b) of title 16 which is determined by averaging the yields per acre for the three highest years of the five years 1959 to 1963, inclusive, except that if the yield for any of the three highest years is less than 80 per centum of the average for the three years then that year or years shall be eliminated and the average of the remaining years shall be the community average yield. Community average yields for other kinds of tobacco shall be determined in like manner, except that the five years 1960 to 1964, inclusive, may be used instead of the period 1959 to 1963, as determined by the Secretary.

(6)(A) "Preliminary farm yield" for Flue-cured tobacco means a farm yield per acre determined by averaging the yield per acre for the three highest years of the five consecutive crop years beginning with the 1959 crop year except that if that average exceeds 120 per centum of the community average yield the

preliminary farm yield shall be the sum of 50 per centum of the average of the three highest years and 50 per centum of the national average yield goal but not less than 120 per centum of the community average yield, and if the average of the three highest years is less than 80 per centum of the community average yield the preliminary farm yield shall be 80 per centum of the community average yield. In counties where less than five hundred acres of Flue-cured tobacco were allotted for 1964, the county may be considered as one community. If Flue-cured tobacco was not produced on the farm for at least three years of the five-year period the average of the yields for the years in which tobacco was produced shall be used instead of the three-year average. If no Flue-cured tobacco was produced on the farm in the five-year period but the farm is eligible for an allotment because Flue-cured tobacco was considered to have been produced under applicable provisions of law, a preliminary farm yield for the farm shall be determined under regulations of the Secretary taking into account preliminary farm yields of similar farms in the community.

(B) "Preliminary farm yield" for kinds of tobacco, other than Flue-cured, means a farm yield per acre determined in accordance with subparagraph (A) of this paragraph (6) except that in lieu of the five consecutive crop years beginning with 1959 the years 1960 to 1964, inclusive, may be used, as determined by the Secretary. In counties where less than five hundred acres of the kind of tobacco for which the determination is being made were allotted in the last year of the five-year period the county may be considered as one community. If tobacco of the kind for which the determination is being made was not produced on the farm for at least three years of the five-year period, the average of the yields for the years in which the kind of tobacco was produced shall be used instead of the three-year average. If no tobacco of the kind for which the determination is being made was produced on the farm in the five-year period but the farm is eligible for an allotment because such tobacco was considered to have been produced under applicable provisions of law, a preliminary farm yield for the farm shall be determined under regulations of the Secretary taking into account preliminary farm yields of similar farms in the community.

(7) "Farm yield" means the yield of tobacco per acre for a farm determined by multiplying the preliminary farm yield by a national yield factor which shall be obtained by dividing the national average yield goal by a weighted national average yield computed by multiplying the preliminary farm yield for each farm by the acreage allotment determined pursuant to paragraph (4) for the farm prior to adjustments for overmarketing, undermarketing, or reductions required under subsection (f) of this section and dividing the sum of the products by the national acreage allotment.

(8) "Farm marketing quota" for any farm for any marketing year shall be the number of pounds of tobacco obtained by multiplying the farm yield by the acreage allotment prior to any adjustment for undermarketing or overmarketing, increased for undermarketing or decreased for overmarketing by the number of pounds by which marketings of tobacco from the farm during the immediately preceding marketing year, if marketing quotas were in effect under the program established by this section, is less than or exceeds the farm marketing quota for such year: *Provided,* That the farm marketing quota for any marketing year shall not be increased for undermarketing by an amount in excess of the number of pounds determined by multiplying the acreage allotment for the farm for the immediately preceding year prior to any increase or decrease for undermarketing or overmarketing by the farm yield. If on account of excess marketings in the preceding marketing year the farm marketing quota for the marketing year is reduced to zero pounds without reflecting the entire reduction required, the additional reduction required shall be made for the subsequent marketing year or years. The farm marketing quota will be increased or decreased for the second succeeding marketing year in the case of Maryland tobacco, and for any other kind of tobacco for which the Secretary determines it is impracticable because of the lack of adequate marketing data, to make the increases or decreases applicable to the immediately succeeding marketing year.

(b) National marketing quota, acreage allotment and average yield goal for Flue-cured tobacco; referendum

Within thirty days after April 16, 1965 the Secretary pursuant to the provisions of subsection (a) of this section shall determine and announce the amount of the national marketing quota for Flue-cured tobacco for the marketing year beginning July 1, 1965, and the national acreage allotment and national average yield goal for the 1965 crop of Flue-cured tobacco, and within thirty days after the announcement of the amount of such national marketing quota shall conduct a special referendum of the farmers engaged in the production of Flue-cured tobacco of the 1964 crop to determine whether they favor or oppose the establishment of marketing quotas on an acreage-poundage basis as provided in this section for the marketing years beginning July 1, 1965, July 1, 1966, and July 1, 1967, in lieu of quotas on an acreage basis in effect for those marketing years. If the Secretary determines that more than 66⅔ per centum of the farmers voting in the special referendum approve marketing quotas on an acreage-poundage basis, marketing quotas on an acreage-poundage basis as provided in this section shall be in effect for those marketing years and the marketing quotas on an acreage basis shall cease to be in effect at the beginning of such three-year period.

(c) Tobacco having marketing quotas on acreage basis; determination of Secretary of program on acreage-poundage basis; announcement of national marketing quota, acreage allotment and average yield goal; referendum

Whenever, during the first or second marketing year of the three-year period for which marketing quotas on an acreage basis are in effect for any kind of tobacco, including Flue-cured tobacco, the Secretary, in his discretion, determines with respect to that kind of tobacco

that acreage-poundage quotas under this section would result in a more effective marketing quota program for that kind of tobacco he shall at the time [1] the next announcement of the amount of the national marketing quota under section 1312(b) of this title determine and announce the amount of the national quota for that kind of tobacco under this section and at the same time announce the national acreage allotment and national average yield goal and within forty-five days thereafter conduct a special referendum of farmers engaged in the production of the kind of tobacco of the most recent crop to determine whether they favor the establishment of marketing quotas on an acreage-poundage basis as provided in this section for the next three marketing years: *Provided, however,* That the Secretary shall not make any such determination with respect to any kind of tobacco except Flue-cured tobacco unless prior thereto he shall conduct public hearings in the areas where such tobacco is produced for the purpose of ascertaining and taking into consideration the attitudes of producers and other interested persons with respect to acreage-poundage quotas. If the Secretary determines that more than 66⅔ per centum of the farmers voting in the special referendum approve marketing quotas on an acreage-poundage basis as provided in this section, quotas on that basis shall be in effect for the next three marketing years and the marketing quotas on an acreage basis shall cease to be in effect at the beginning of such three-year period. If marketing quotas on an acreage-poundage basis are not approved by more than 66⅔ per centum of the farmers voting in such referendum, the marketing quotas on an acreage basis shall continue in effect as theretofore proclaimed under section 1312(a) of this title.

(d) Proclamation of national marketing quota for three years following last year of three years of acreage-poundage quotas; referendum; notice of farm marketing quota to farm operators

If marketing quotas have been made effective for a kind of tobacco on an acreage-poundage basis pursuant to subsections (b) or (c) of this section the Secretary shall, not later than December 1 of any marketing year with respect to Flue-cured tobacco, and February 1 with respect to other kinds of tobacco, proclaim a national marketing quota for that kind of tobacco for the next three succeeding marketing years if the marketing year is the last year of three consecutive years for which marketing quotas previously proclaimed will be in effect. The Secretary, in his discretion, may proclaim the quota on an acreage-poundage basis as provided in this section or on an acreage allotment basis, whichever he determines would result in a more effective marketing quota for that kind of tobacco, and shall conduct a referendum in accordance with the provisions of section 1312(c) of this title. If the Secretary determines that more than one-third of the farmers voting oppose the national marketing quotas the results shall be proclaimed and the national marketing quota so proclaimed shall not be in effect. If the Secretary proclaims the quotas on an acreage-poundage basis he shall determine and proclaim at the same time the national marketing quota, national acreage allotment, and national average yield goal for the first year of the three years for which quotas are proclaimed. Notice of the farm marketing quota which will be in effect for his farm for the first marketing year covered by the referendum insofar as practicable shall be mailed to the farm operator prior to the holding of any special referendum under subsection (b) of this section or a referendum on acreage-poundage quotas under this subsection, and at least 15 days prior to the holding of any special referendum under subsection (c) of this section. The Secretary shall determine and announce the national marketing quota, national acreage allotment and national average yield goal for the second and third marketing years of any three-year period for which national marketing quotas on an acreage-poundage basis are in effect on or before the December 1 with respect to Flue-cured tobacco and the February 1 with respect to other kinds of tobacco immediately preceding the beginning of the marketing year to which they apply. Whenever a national marketing quota, national acreage allotment, and national average yield goal are determined and announced, the Secretary shall provide for the determination of farm acreage allotments and farm marketing quotas under the provisions of this section for the crop and marketing year covered by the determinations.

(e) Nonestablishment of farm acreage allotment or farm yield for farms without tobacco production for five years; reserve; "new farms" defined; acreage allotment and farm yield basis of new farms; farm yield limitation

No farm acreage allotment or farm yield shall be established for a farm on which no tobacco was produced or considered produced under applicable provisions of law for the immediately preceding five years. For each marketing year for which acreage-poundage quotas are in effect under this section the Secretary in his discretion may establish a reserve from the national acreage allotment in an amount equivalent to not more than 1 per centum of the national acreage allotment to be available for making corrections of errors in farm acreage allotments, adjusting inequities, and for establishing acreage allotments for new farms, which are farms on which tobacco was not produced or considered produced during the immediately preceding five years. The part of the reserve held for apportionment to new farms shall be allotted on the basis of land, labor, and equipment available for the production of tobacco, crop rotation practices, soil and other physical factors affecting the production of tobacco and the past tobacco-producing experience of the farm operator. The farm yield for any farm for which a new farm acreage allotment is established shall be determined on the basis of available productivity data for the land involved and farm yields for similar farms, and shall not exceed the community average yield.

[1] So in the original.

(f) Acreage reduction penalties applicable to acreage-poundage programs; farm marketing quota reductions; filing false reports; increases or decreases in acreage allotments and farm yields for other farms of owner displaced by agency acquisition of farms; leases of acreage allotments and farm marketing quotas; ratification of transfers of acreage allotments

Only the provisions of the last two sentences of subsection (g) of section 1313 of this title shall apply with respect to acreage-poundage programs established under this section. The acreage reductions required under the last two sentences shall be in addition to any other adjustments made pursuant to this section, and when acreage reductions are made the farm marketing quota shall be reduced to reflect such reductions. The provisions of the next to the last sentence of such subsection pertaining to the filing of any false report with respect to the acreage of tobacco grown on the farm shall also be applicable to the filing of any false report with respect to the production or marketings of tobacco grown on a farm for which an acreage allotment and a farm yield are established as provided in this section. In establishing acreage allotments and farm yields for other farms owned by the owner displaced by acquisition of his land by any agency, as provided in section 1378 of this title, increases or decreases in such acreage allotments and farm yields as provided in this section shall be made on account of marketings below or in excess of the farm marketing quota for the farm acquired by the agency. Acreage allotments and farm marketing quotas determined under this section may (except in the case of kinds of tobacco not subject to section 1314b of this title) be leased under the terms and conditions contained in section 1314b of this title, except that (1) the adjustment provided for in the last sentence of subsection (c) of said section shall be based on farm yields rather than normal yields, and (2) any credit for undermarketing or charge for overmarketing shall be attributed to the farm to which transferred. Transfers of acreage allotments for 1965 under section 1314b of this title on the basis of leases executed prior to the effective date of a program for the 1965 crop of Flue-cured tobacco under this section may be approved or ratified by the county committee for the purposes of this section, but the amount of allotment transferred shall be increased or decreased in the same proportion that the allotment of the farm from which it is transferred is increased or decreased under this section.

(g) Marketing penalties

When marketing quotas under this section are in effect, provisions with respect to penalties for the marketing of excess tobacco and the other provisions contained in section 1314 of this title shall apply, except that:

(1) No penalty on excess tobacco shall be due or collected until 110 per centum (120 per centum in the case of Burley tobacco for the first year for which marketing quotas are made effective under this section) of the farm marketing quota for a farm has been marketed, but with respect to each pound of tobacco marketed in excess of such percentage the full penalty rate shall be due, payable, and collected at the time of marketing on each pound of tobacco marketed, and any tobacco marketed in excess of 100 per centum of the farm marketing quota will require a reduction in subsequent farm marketing quotas in accordance with subsection (a)(8) of this section: *Provided, however,* If the Secretary, in his discretion, determines it is desirable to encourage the marketing of grade N_2 tobacco, or any grade of tobacco not eligible for price support, in order to meet the normal demands of export and domestic markets, he may authorize the marketing of such tobacco in a marketing year without the payment of penalty or deduction from subsequent quotas to the extent of 5 per centum of the farm marketing quota for the farm on which the tobacco was produced.

(2) When marketing quotas established under this section are in effect the provisions with respect to penalties contained in the third sentence of section 1314(a) of this title shall be revised to read: "If any producer falsely identifies or fails to account for the disposition of any tobacco, the Secretary, in lieu of assessing and collecting penalties based on actual marketings of excess tobacco, may elect to assess a penalty computed by multiplying the full penalty rate by an amount of tobacco equal to 25 per centum of the farm marketing quota plus the farm yield of the number of acres harvested in excess of the farm acreage allotment and the penalty in respect thereof shall be paid and remitted by the producer."

(3) For the first year a marketing quota program established under the provisions of this section is in effect, the words "normal production" where they appear in the fourth sentence of subsection (a) of section 1314 of this title shall be read "farm yield" and the said fourth sentence shall otherwise be applicable. For the second and succeeding years for which a program established under the provisions of this section is in effect, the provisions of subsection (a)(8) of this section apply when penalties, if any, on carryover tobacco are computed, and the provisions contained in the fourth sentence of section 1314(a) of this title shall not be applicable.

(h) Burley tobacco; acreage-poundage basis: farm acreage allotment and farm marketing quota, adjustments for overmarketing or undermarketing, reductions for violations; acreage and quota additional to national acreage allotment and national marketing quota; acreage basis: acreage allotment, amendment of clause (1) and proviso of section 1315

Notwithstanding any other provision of this section, for any year subsequent to the first year for which marketing quotas are made effective under this section for Burley tobacco—

(1) the farm acreage allotment for Burley tobacco under this section shall not be less than the smallest of (A) the acreage allotment established for the farm for such first year, (B) five-tenths of an acre, or (C) 10 per centum of the cropland; and

(2) the farm marketing quota for Burley tobacco under this section shall not be less than the minimum allotment provided by clause (1) multiplied by the farm yield established for such first year for such farm.

Farm acreage allotments and marketing quotas to which the provisions of (1) and (2) are applicable shall be subject to adjustment for overmarketing or undermarketing or reductions required by subsection (f) of this section. The additional acreage and quotas required under the subsection shall be in addition to the national acreage allotment and national marketing quota.

Whenever the Secretary proclaims a quota on an acreage allotment basis (in lieu of on an acreage poundage basis)—

(A) the minimum acreage allotment for Burley tobacco for any farm shall be determined under the provisions of section 1315 of this title instead of under the preceding provisions of this subsection;

(B) clause (1) of section 1315 of this title shall for such purpose read as follows: "(1) the allotment established for the farm for the last preceding year for which a quota was proclaimed on an acreage allotment basis"; and

(C) the proviso of section 1315 of this title shall for such purpose read as follows: *"Provided, however,* That no allotment of seven-tenths of an acre or less shall be reduced more than one-tenth of an acre below the allotment established for the farm for the last preceding year for which a quota was proclaimed on an acreage allotment basis".

(i) Consultations with industry representatives respecting a program for each kind of tobacco, studies of Flue-cured tobacco acreage-poundage program, report and recommendations to congressional committees, upon referendum approval of Flue-cured tobacco acreage-poundage program

If an acreage-poundage program for Flue-cured tobacco is approved by growers voting in the special referendum under subsection (b) of this section, the Secretary shall not later than January 1, 1966—

(1) Consult with representatives of all segments of the tobacco industry, including growers, State farm organizations, and cooperative associations, in meetings held for each kind of tobacco, to receive their recommendations and to determine the need for a similar or modified program for that kind of tobacco.

(2) Conduct a study and report to the House Committee on Agriculture and the Senate Committee on Agriculture, Nutrition, and Forestry on experience with and operation of the program, and make recommendations for any modifications needed to improve the program, including alternatives adapted to the different needs of other kinds of tobacco.

(Feb. 16, 1938, ch. 30, title III, § 317, as added Apr. 16, 1965, Pub. L. 89-12, § 1, 79 Stat. 66, and amended June 19, 1970, Pub. L. 91-284, § 5, 84 Stat. 314; S. Res. 4, Feb. 4, 1977.)

AMENDMENTS

1970—Subsec. (f). Pub. L. 91-284 struck out in fifth sentence parenthetical words "Burley tobacco or other" preceding "kinds of tobacco".

CHANGE OF NAME

The Committee on Agriculture and Forestry of the Senate, referred to in subsec. (i), was abolished and replaced by the Committee on Agriculture, Nutrition, and Forestry of the Senate, effective Feb. 11, 1977. See Rule XXV of the Standing Rules of the Senate, as amended by Senate Resolution 4 (popularly cited as the "Committee System Reorganization Amendments of 1977"), approved Feb. 4, 1977.

TOBACCO DEFINITION AND INCREASE OF MARKETING QUOTAS AND ACREAGE ALLOTMENTS TO MEET DEMAND UNAFFECTED BY ACREAGE-POUNDAGE MARKETING QUOTAS AND PRICE SUPPORT PROVISIONS

Section 4 of Pub. L. 89-12 provided that: "Nothing in this Act [enacting this section and amending sections 1313 and 1445 of this title] shall be construed as affecting the authority or responsibility of the Secretary of Agriculture under section 301(b)(15) [section 1301(b)(15) of this title] or section 313(i) [section 1313(i) of this title] of the Agricultural Adjustment Act of 1938 with respect to providing that different types of tobacco shall be treated as different kinds of tobacco, or with respect to increasing allotments or quotas for farms producing certain types of tobacco."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1313, 1316, 1445 of this title.

§ 1314d. Fire-cured, dark air-cured, and Virginia sun-cured tobacco

(a) Sale or lease of acreage allotments and acreage-poundage quotas

Notwithstanding any other provision of law, the Secretary, if he determines that it will not impair the effective operation of the tobacco marketing quota or price support programs, (1) may permit the owner and operator of any farm for which a Fire-cured, dark air-cured, or Virginia sun-cured tobacco acreage allotment or acreage-poundage quota is established under this chapter to sell or lease all or any part or the right to all or any part of such allotment or quota to any other owner or operator of a farm for transfer to such farm; and (2) may permit the owner of a farm to transfer all or any part of such allotment or quota to any other farm owned or controlled by him.

(b) Conditions for transfers

Transfers under this section shall be subject to the following conditions: (1) no allotment or quota shall be transferred to a farm in another county: *Provided,* That in the case of Virginia fire-cured tobacco type 21 and Virginia sun-cured tobacco type 37, any such transfer may be made to a farm in another county in the same State; (2) no transfer other than by annual lease of an allotment or quota from a farm subject to a mortgage or other lien shall be permitted unless the transfer is agreed to by the lienholders; (3) no sale of a farm allotment or quota from a farm shall be permitted if any sale of allotment or quota to the same farm has been made within the three immediately preceding crop years; and (4) no transfer of allotment or quota shall be effective until a record thereof is filed with the county committee of the county to which such transfer is made and such committee determines that the transfer complies with the provisions of this section.

(c) Transfer of acreage history and marketing quota

The transfer of an allotment or quota under this section shall have the effect of transferring also the acreage history and marketing quota attributable to such allotment or quota and if the transfer is made prior to the determi-

nation of the allotment or quota for any year the transfer shall include the right of the owner or operator to have an allotment or quota determined for the farm for such year: *Provided,* That in the case of a transfer by lease the amount of the allotment or quota shall be considered for purposes of determining allotments or quotas after the expiration of the lease to have been planted on the farm from which such allotment is transferred.

(d) Five-year restriction on new farm allotments or quotas

The land in the farm from which the entire tobacco allotment or quota has been transferred shall not be eligible for a new farm tobacco allotment or quota during the five years following the year in which such transfer is made.

(e) Allotment adjustment

If the normal yield established by the county committee for the farm to which the allotment is transferred does not exceed the normal yield established by the county committee for the farm from which the allotment is transferred by more than 10 per centum, the transfer shall be approved acre for acre. If the normal yield for the farm to which the allotment is transferred exceeds the normal yield for the farm from which the allotment is transferred by more than 10 per centum, the county committee shall make a downward adjustment in the amount of the acreage allotment transferred by multiplying the normal yield established for the farm from which the allotment is transferred by the acreage being transferred and dividing the result by the normal yield established for the farm to which the allotment is transferred.

(f) Lease term

Any lease under this section may be made for such term of years not to exceed five as the parties thereto agree, and on such other terms and conditions except as otherwise provided in this section as the parties thereto agree.

(g) Acreage transfer maximums

Under the provisions of this section not more than ten acres of allotment may be transferred to any farm: *Provided,* That the total acreage allotted to any farm after such transfer shall not exceed 50 per centum of the acreage of cropland in the farm.

(h) Future allotments; referendum voting eligibility

The lease of any part of a tobacco acreage allotment or acreage-poundage quota under this section determined for a farm shall not affect the allotment or quota for the farm from which such allotment or quota is transferred or the farm to which it is transferred, except with respect to the crop year or years specified in the lease. The amount of the acreage allotment and acreage-poundage quota which is leased from a farm shall be considered for purposes of determining future allotments and quotas to have been planted to tobacco on the farm from which such allotment or quota is leased and the production pursuant to the lease shall not be taken into account in establishing allotments or quotas for subsequent years for the farm to which such allotment is leased. The lessor shall be considered to have been engaged in the production of tobacco for purposes of eligibility to vote in the referendum.

(i) Land utilization agreements; payment adjustments

If the sale or transfer under this section occurs during a period in which the farm is covered, by a conservation reserve contract, cropland conversion agreement, or other similar land utilization agreement the rates of payment provided for in the contract or agreement of the farm from which the transfer is made shall be subject to an appropriate adjustment, but no adjustment shall be made in the contract or agreement of the farm to which the transfer is made.

(j) Rules and regulations

The Secretary shall prescribed such regulations and other terms and conditions as he deems necessary for the administration of this section.

(Feb. 16, 1938, ch. 30, title III, § 318, as added July 7, 1967, Pub. L. 90-51, § 1, 81 Stat. 120, and amended July 5, 1968, Pub. L. 90-387, 82 Stat. 293; Oct. 23, 1971, Pub. L. 92-144, 85 Stat. 393.)

AMENDMENT

1971—Subsec. (b)(1). Pub. L. 92-144 inserted proviso referring to Virginia fire-cured tobacco type 21 and Virginia sun-cured tobacco type 37.

1968—Subsec. (b)(2). Pub. L. 90-387 inserted "other than by annual lease" following "no transfer".

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1314e of this title.

§ 1314e. Burley tobacco poundage quotas

(a) Proclamation; referendum

Notwithstanding any other provision of law, the Secretary shall, within thirty days following April 14, 1971, proclaim national marketing quotas for burley tobacco for the three marketing years beginning October 1, 1971, and determine and announce the amount of the marketing quota for burley tobacco for the marketing year beginning October 1, 1971, as provided in this section.

Within thirty days following such proclamation, the Secretary shall conduct a referendum of the farmers engaged in the production of the 1970 crop of burley tobacco to determine whether they favor or oppose the establishment of farm marketing quotas on a poundage basis as provided in this section for the three marketing years beginning October 1, 1971. If the Secretary determines that two-thirds or more of the farmers voting in such referendum approve marketing quotas on a poundage basis, marketing quotas as provided in this section shall be in effect for those three marketing years. If marketing quotas on a poundage basis are not approved by at least two-thirds of the farmers voting in such referendum, no marketing quotas or price support for burley tobacco shall be in effect for the marketing year beginning October 1, 1971. Thereafter, the provisions of section 1312 of this title shall apply: *Provided,* That national marketing quotas for burley tobacco for any marketing year subsequent to the marketing year beginning October 1, 1971, shall be proclaimed as provided in this section.

(b) Proclamation for second and third years; referendum

The Secretary shall determine and announce, not later than the February 1 preceding the second and third marketing years of any three-year period for which marketing quotas on a poundage basis are in effect under this section, the amount of the national marketing quota for each of such years. If marketing quotas have been made effective on a poundage basis under this section, the Secretary shall, not later than February 1 of the last year of three consecutive marketing years for which marketing quotas are in effect under this section, proclaim national marketing quotas for burley tobacco for the next three succeeding marketing years as provided in this section. Within thirty days following such proclamation, the Secretary shall conduct a referendum in accordance with section 1312(c) of this title. If the Secretary determines that more than one-third of the farmers voting oppose the national marketing quotas, he shall announce the results and no marketing quotas or price support shall be in effect for such kind of tobacco for the first marketing year of such three-year period. Thereafter, the provisions of section 1312 of this title shall apply: *Provided,* That the national marketing quota and farm marketing quotas shall be determined as provided in this section. Notice of the farm marketing quota which will be in effect for his farm for the first marketing year covered by any referendum under this section shall, insofar as practicable, be mailed to the farm operator in sufficient time to be received prior to the referendum.

(c) Amount of national marketing quota, determination; national reserve, establishment

The national marketing quota determined under this section for burley tobacco for any marketing year shall be the amount produced in the United States which the Secretary estimates will be utilized in the United States and will be exported during such marketing year, adjusted upward or downward in such amount as the Secretary, in his discretion, determines is desirable for the purpose of maintaining an adequate supply or for effecting an orderly reduction of supplies to the reserve supply level. Any such downward adjustment shall not exceed 5 per centum of such estimated utilization and exports. For each marketing year for which marketing quotas are in effect under this section, the Secretary in his discretion may establish a reserve (hereinafter referred to as the "national reserve") from the national marketing quota in an amount not in excess of 1 per centum of the national marketing quota to be available for making corrections and adjusting inequities in farm marketing quotas, and for establishing marketing quotas for new farms (that is, farms for which farm marketing quotas are not otherwise established).

(d) Farm yields; determination; limitation

When a national marketing quota is first proclaimed under this section, the Secretary shall through local committees determine a farm yield for each farm for which a burley tobacco acreage allotment was established for the marketing year beginning October 1, 1970. Such yield shall be determined by averaging the yield per acre for the four highest years of the five consecutive years beginning with the 1966 crop year: *Provided,* That if burley tobacco was produced on the farm in fewer than five of such years, the farm yield shall be the simple average of the yields obtained in the years during such period that burley tobacco was produced on the farm: *Provided further,* That if no burley tobacco was produced on the farm but the farm was considered as having planted burley tobacco during the immediately preceding five years, the farm yield will be appraised on the basis of the yields established for similar farms in the area on which burley tobacco was produced during such five-year period: *And provided further,* That the farm yield established for any farm shall not exceed three thousand five hundred pounds per acre.

(e) Farm marketing quotas; preliminary quotas, determination, limitation; succeeding years, quota computation, limitations, increase and reduction of quotas; new farms, limitation

A preliminary farm marketing quota shall be determined for each farm for which a burley tobacco acreage allotment was established for the marketing year beginning October 1, 1970, by multiplying the farm yield determined under subsection (d) of this section by the farm acreage allotment (prior to any reduction for violation of regulations issued pursuant to the chapter) established for such farm for the marketing year beginning October 1, 1970. For each farm for which such a preliminary farm marketing quota is determined, a farm marketing quota for the first year shall be determined by multiplying the preliminary farm marketing quota by a national factor obtained by dividing the national marketing quota determined under subsection (c) of this section (less the national reserve) by the sum of all preliminary farm marketing quotas as determined under this subsection: *Provided,* That such national factor shall not be less than 95 per centum.

The farm marketing quota for each succeeding year shall be determined by multiplying the previous year's farm marketing quota by a national factor obtained by dividing the national marketing quota determined under subsection (c) of this section (less the national reserve) by the sum of the farm marketing quotas for the immediately preceding year for all farms for which burley tobacco marketing quotas will be determined for such succeeding marketing year: *Provided,* That such national factor shall not be less than 95 per centum: *Provided further,* That for the marketing years beginning October 1, 1972, and October 1, 1973, the farm marketing quota for any farm shall not be less than the smaller of (1) one-half acre times the farm yield times one-half the sum of the figure one and the national factor for the current year, or (2) the farm marketing quota for the immediately preceding marketing year times one-half the sum of the figure one and the national factor for the current year. The farm marketing quota so computed for any farm for any year shall be increased by the number of pounds by which marketings from the farm during the immediately preceding year were less than the farm marketing quota (after adjustments): *Provided,* That any such increase shall not exceed the amount of the farm mar-

keting quota (including leased pounds) for the immediately preceding marketing year prior to any increase for undermarketings or decrease for overmarketings. The farm marketing quota so computed for each farm for any year shall be reduced by the number of pounds by which marketing from the farm during the immediately preceding year exceeded the farm marketing quota (after adjustments): *Provided,* That if, on account of excess marketings in the preceding year, the farm marketing quota is reduced to zero pounds without reflecting the entire reduction required, the additional reduction required shall be made in subsequent marketing years.

The farm marketing quota for a new farm shall be the number of pounds determined by the county committee with approval of the State committee to be fair and reasonable for the farm on the basis of the past burley tobacco experience of the farm operator; the land, labor, and equipment available for the production of burley tobacco; crop rotation practices, and the soil and other physical factors affecting the production of burley tobacco: *Provided,* That the farm marketing quota for any such new farm shall not exceed 50 per centum of the average of the farm marketing quotas for similar farms for which farm marketing quotas are otherwise established: *Provided further,* That the number of pounds allocated to all new farms shall not exceed that portion of the national reserve provided by the Secretary for establishing quotas for new farms.

(f) Reductions for false information

When a poundage program is in effect under this section, the farm marketing quota next established for any farm shall be reduced by the amount of burley tobacco produced on any farm (1) which is marketed as having been produced on a different farm; (2) for which proof of disposition is not furnished as required by the Secretary; and (3) as to which any producer on the farm files, or aids or acquiesces in the filing of, any false report with respect to the production or marketings of tobacco: *Provided,* That if the Secretary through the local committee finds that no person connected with such farm caused, aided, or acquiesced in any such irregularity, the next established farm marketing quota shall not be reduced under this subsection. The reductions required under this subsection shall be in addition to any other adjustments made pursuant to this section.

(g) Leases and transfers of farm quotas; limitations

When a poundage program is in effect under this section, farm marketing quotas (after adjustments) for burley tobacco may be leased and transferred to other farms in the same county under the terms and conditions contained in section 1314d of this title: *Provided,* That such leases and transfers shall be on a pound for pound basis: *Provided further,* That any adjustment for undermarketings or overmarketings shall be attributed to the farm to which leased and transferred: *Provided further,* That not more than fifteen thousand pounds may be leased and transferred to any farm under this section: *And provided further,* That the marketing quota determined for any farm subsequent to such lease and transfer shall not exceed an amount determined by multiplying the farm yield established under subsection (d) of this section by 50 per centum of the acreage of cropland in the farm.

(h) Loss of quotas through underplanting

Effective with the marketing year beginning October 1, 1976, no marketing quota, other than a new farm marketing quota, shall be established for a farm on which no burley tobacco was planted or considered planted in any of the five years immediately preceding the year for which farm marketing quotas are being established.

(i) Marketing penalties

When marketing quotas under this section are in effect, provisions with respect to penalties for the marketing of excess tobacco and the other provisions contained in section 1314 of this title shall apply, except that:

(1) No penalty on excess tobacco shall be due or collected until 110 per centum of the farm marketing quota (after adjustments) for a farm has been marketed, but with respect to each pound of tobacco marketed in excess of such percentage the full penalty rate shall be due, payable, and collected at the time of marketing on each pound of tobacco marketed, and any tobacco marketed in excess of 100 per centum of the farm marketing quota (after adjustments) will require a reduction in subsequent farm marketing quotas in accordance with subsection (e) of this section: *Provided,* That if the Secretary, in his discretion, determines it is desirable to encourage additional marketings of any grades of burley tobacco during any marketing year to insure traditional market patterns to meet the normal demands of export and domestic markets, he may authorize the marketing of such grades without the payment of penalty or deduction from subsequent quotas to the extent of 5 per centum of the farm marketing quota for the farm on which the tobacco was produced, and such marketings shall be eligible for price support.

(2) The provisions with respect to penalties contained in the third sentence of section 1314(a) of this title shall be revised to read: "If any producer falsely identifies or fails to account for the disposition of any tobacco, the Secretary, in lieu of assessing and collecting penalties based on actual marketings of excess tobacco, may elect to assess a penalty computed by multiplying the full penalty rate by an amount of tobacco equal to 25 per centum of the farm marketing quota (after adjustments) and the penalty in respect thereof shall be paid and remitted by the producer."

(3) The provisions contained in the fourth sentence of section 1314(a) of this title shall not be applicable. For the first year a marketing quota program established under the provisions of this section is in effect, the farm marketing quota determined under the provisions of subsection (e) of this section shall receive a temporary upward adjustment equal to the amount of carryover penalty-free burley tobacco for the farm. For subsequent years, the provisions of subsection (c) of this section shall apply.

(j) Regulations

The Secretary shall prescribe such regulations as he considers necessary for carrying out the provisions of this section.

(Feb. 16, 1938, ch. 30, title III, § 319, as added Apr. 14, 1971, Pub. L. 92-10, § 1, 85 Stat. 23.)

REFERENCES IN TEXT

The chapter, referred to in subsec. (e), in the original read "the Act" meaning the Agricultural Adjustment Act of 1938 which is classified to this chapter (§ 1281 et seq.).

BURLEY TOBACCO MARKETING YEARS 1971, 1972, AND 1973

Action of Secretary under section 1312 of this title for burley tobacco for marketing years 1971, 1972, and 1973, prior to Apr. 14, 1971, without any effect, see section 4 of Pub. L. 92-10, set out as a note under section 1312 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1378, 1445 of this title.

§ 1314f. Nonquota tobacco

Notwithstanding any other provision of law, beginning with the 1975 crop, any kind of tobacco for which marketing quotas are not in effect that is produced in an area where producers who are engaged in the production of a kind of tobacco traditionally produced in the area have approved marketing quotas under this chapter shall be subject to the quota for the kind of tobacco traditionally produced in the area: *Provided, however,* That this section shall not apply in any case in which the Secretary or his designee finds any such nonquota tobacco is readily and distinguishably different from any kind of tobacco produced under quota, because of seed variety, cultural practices, method of curing and other factors affecting its physical characteristics, as determined through the application of the Federal Standards of Inspection and Identification of quota types and the tobacco does not possess any of the distinguishable characteristics of a quota type. If marketing quotas are in effect for more than one kind of tobacco in an area, any nonquota tobacco produced in the area shall be subject to quotas for the kind of tobacco traditionally produced in the area having the highest price support under the Agricultural Act of 1949 [7 U.S.C. 1421 et seq.].

(Feb. 16, 1938, ch. 30, title III, § 320, as added Sept. 3, 1974, Pub. L. 93-411, 88 Stat. 1089.)

REFERENCES IN TEXT

The Agricultural Act of 1949, referred to in text, is act Oct. 31, 1949, ch. 792, 63 Stat. 1051, which is classified generally to chapter 35A (§ 1421 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note under section 1421 of this title and Tables volume.

§ 1315. Burley tobacco acreage allotments

The farm acreage allotment for burley tobacco for any year shall not be less than the smallest of (1) the allotment established for the farm for the immediately preceding year, (2) five-tenths of an acre, or (3) 10 per centum of the cropland: *Provided, however,* That no allotment of seven-tenths of an acre or less shall be reduced more than one-tenth of an acre in any one year. The additional acreage required under this section shall be in addition to the State acreage allotments and the production on such acreage shall be in addition to the national marketing quota.

(July 12, 1952, ch. 709, 66 Stat. 597; Mar. 31, 1955, ch. 21, § 2, 69 Stat. 24.)

CODIFICATION

Section was not enacted as a part of the Agricultural Adjustment Act of 1938, which comprises this chapter.

AMENDMENTS

1955—Act Mar. 31, 1955, amended section generally by reducing minimum acreage allotments.

EFFECTIVE DATE OF 1955 AMENDMENT

Act Mar. 31, 1955, provided in part that amendment to this section by said act shall be effective for the 1956 and subsequent crops of burley tobacco.

ACREAGE ALLOTMENT BASIS OF QUOTA; AMENDMENT OF CLAUSE (1) AND PROVISO

Part of section 317(h) of act Feb. 16, 1938, ch. 30, title III, as added by Pub. L. 89-12, § 1, Apr. 16, 1965, 79 Stat. 72, and classified as part of section 1314c(h) of this title, provided that:

"Whenever the Secretary proclaims a quota on an acreage allotment basis (in lieu of on an acreage poundage basis)—

"(A) the minimum acreage allotment for Burley tobacco for any farm shall be determined under the provisions of the Act of July 12, 1952, as amended (7 U.S.C. 1315) instead of under the preceding provisions of this subsection [section 1314c(h) of this title];

"(B) clause (1) of the Act of July 12, 1952 [this section], shall for such purpose read as follows: '(1) the allotment established for the farm for the last preceding year for which a quota was proclaimed on an acreage allotment basis'; and

"(C) the proviso of that Act [this section] shall for such purpose read as follows: '*Provided, however,* That no allotment of seven-tenths of an acre or less shall be reduced more than one-tenth of an acre below the allotment established for the farm for the last preceding year for which a quota was proclaimed on an acreage allotment basis'."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1314c of this title.

§ 1316. Lease and transfer of allotments subsequent to 1965

Notwithstanding the provisions of sections 1314b(c) and 1314c(b) of this title, relating to lease and transfer of allotments for years subsequent to 1965, whenever acreage-poundage quotas are in effect for any kind of tobacco as provided in section 1314c of this title, the lease and transfer shall be on a pound for pound basis and the acreage allotment for the lessee farm shall be increased by an amount determined by dividing the number of pounds leased by the farm yield for the lessee farm, and the acreage allotment for the lessor farm shall be reduced by an amount determined by dividing the number of pounds leased by the farm yield for the lessor farm.

(Pub. L. 89-321, title VII, § 703, Nov. 3, 1965, 79 Stat. 1210; Pub. L. 91-284, § 6, June 19, 1970, 84 Stat. 314.)

AMENDMENTS

1970—Pub. L. 91-284 struck out "except in the case of burley tobacco, and other kinds of tobacco not subject to section 1314b of this title," following "any kind of tobacco as provided in section 1314c of this title,".

CODIFICATION

Section was not enacted as part of the Agricultural Adjustment Act of 1938, which comprises this chapter. The first sentence of section 703 of Pub. L. 89-321 amended section 1314b(a) of this title.

SUBPART II—ACREAGE ALLOTMENTS—CORN

AMENDMENTS

1954—Act Aug. 28, 1954, ch. 1041, title III, § 303, 68 Stat. 902, substituted "Acreage Allotments—Corn" for "Marketing Quotas—Corn" in the heading of Part II.

§ 1321. Legislative finding of effect on interstate and foreign commerce and necessity of regulation

Corn is a basic source of food for the Nation, and corn produced in the commercial corn-producing area moves almost wholly in interstate and foreign commerce in the form of corn, livestock, and livestock products.

Abnormally excessive and abnormally deficient supplies of corn acutely and directly affect, burden, and obstruct interstate and foreign commerce in corn, livestock, and livestock products. When abnormally excessive supplies exist, transportation facilities in interstate and foreign commerce are overtaxed, and the handling and processing facilities through which the flow of interstate and foreign commerce in corn, livestock, and livestock products is directed become acutely congested. Abnormally deficient supplies result in substantial decreases in livestock production and in an inadequate flow of livestock and livestock products in interstate and foreign commerce, with the consequence of unreasonably high prices to consumers.

Violent fluctuations from year to year in the available supply of corn disrupt the balance between the supply of livestock and livestock products moving in interstate and foreign commerce and the supply of corn available for feeding. When available supplies of corn are excessive, corn prices are low and farmers overexpand livestock production in order to find outlets for corn. Such expansion, together with the relative scarcity and high price of corn, forces farmers to market abnormally excessive supplies of livestock in interstate commerce at sacrifice prices, endangering the financial stability of producers, and overtaxing handling and processing facilities through which the flow of interstate and foreign commerce in livestock and livestock products is directed. Such excessive marketings deplete livestock on farms, and livestock marketed in interstate and foreign commerce consequently becomes abnormally low, with resultant high prices to consumers and danger to the financial stability of persons engaged in transporting, handling, and processing livestock in interstate and foreign commerce. These high prices in turn result in another overexpansion of livestock production.

Recurring violent fluctuations in the price of corn resulting from corresponding violent fluctuations in the supply of corn directly affect the movement of livestock in interstate commerce from the range cattle regions to the regions where livestock is fattened for market in interstate and foreign commerce, and also directly affect the movement in interstate commerce of corn marketed as corn which is transported from the regions where produced to the regions where livestock is fattened for market in interstate and foreign commerce.

Substantially all the corn moving in interstate commerce, substantially all the corn fed to livestock transported in interstate commerce for fattening, and substantially all the corn fed to livestock marketed in interstate and foreign commerce, is produced in the commercial corn-producing area. Substantially all the corn produced in the commercial corn-producing area, with the exception of a comparatively small amount used for farm consumption, is either sold or transported in interstate commerce, or is fed to livestock transported in interstate commerce for feeding, or is fed to livestock marketed in interstate and foreign commerce. Almost all the corn produced outside the commercial corn-producing area is either consumed, or is fed to livestock which is consumed, in the State in which such corn is produced.

The conditions affecting the production and marketing of corn and the livestock products of corn are such that, without Federal assistance, farmers, individually or in cooperation, cannot effectively prevent the recurrence of disparities between the supplies of livestock moving in interstate and foreign commerce and the supply of corn available for feeding, and provide for orderly marketing of corn in interstate and foreign commerce and livestock and livestock products in interstate and foreign commerce.

The national public interest requires that the burdens on interstate and foreign commerce above described be removed by the exercise of Federal power. By reason of the administrative and physical impracticability of regulating the movement of livestock and livestock products in interstate and foreign commerce and the inadequacy of any such regulation to remove such burdens, such power can be feasibly exercised only by providing for the withholding from market of excessive and burdensome supplies of corn in times of excessive production, and providing a reserve supply of corn available for market in times of deficient production, in order that a stable and continuous flow of livestock and livestock products in interstate and foreign commerce may at all times be assured and maintained.

(Feb. 16, 1938, ch. 30, title III, § 321, 52 Stat. 48.)

§ 1322. Repealed. Aug. 28, 1954, ch. 1041, title III, § 304, 68 Stat. 902

Section, acts Feb. 16, 1938, ch. 30, title III, § 322, 52 Stat. 49; July 3, 1948, ch. 827, title II, § 203, 62 Stat. 1255; Oct. 31, 1949, ch. 792, title IV, § 409(e), 63 Stat. 1057, related to establishment, referendum, and suspension of farm marketing quotas.

§ 1322a. Repealed. July 3, 1948, ch. 827, title II, § 203 (b), 62 Stat. 1256

Section, act July 26, 1939, ch. 378, 53 Stat. 1125, related to time for proclamation of referendum.

EFFECTIVE DATE OF REPEAL

Repeal effective Jan. 1, 1950, see section 303 of act July 3, 1948, set out as a note under section 1301 of this title.

§§ 1323 to 1325. Repealed. Aug. 28, 1954, ch. 1041, title III, § 304, 68 Stat. 902

Section 1323, act Feb. 16, 1938, ch. 30, title III, § 323, 52 Stat. 50, related to amount of farm marketing quota with respect to corn.

Section 1324, act Feb. 16, 1938, ch. 30, title III, § 324, 52 Stat. 50, related to storage amounts.

Section 1325, act Feb. 16, 1938, ch. 30, title III, § 325, 52 Stat. 51, related to penalties for marketing corn in excess of quota.

§ 1326. Adjustment of farm marketing quotas

(a) Whenever in any county or other area the Secretary finds that the actual production of corn plus the amount of corn stored under seal in such county or other area is less than the normal production of the marketing percentage of the farm acreage allotments in such county or other area, the Secretary shall terminate farm marketing quotas for corn in such county or other area.

(b) Whenever, upon any farm, the actual production of the acreage of corn is less than the normal production of the marketing percentage of the farm acreage allotment, there may be marketed, without penalty, from such farm an amount of corn from the corn stored under seal pursuant to section 1324 of this title which, together with the actual production of the then current crop, will equal the normal production of the marketing percentage of the farm acreage allotment.

(c) Whenever, in any marketing year, marketing quotas are not in effect with respect to the crop of corn produced in the calendar year in which such marketing year begins, all marketing quotas applicable to previous crops of corn shall be terminated.

(Feb. 16, 1938, ch. 30, title III, § 326, 52 Stat. 51.)

REFERENCES IN TEXT

Section 1324 of this title, referred to in subsec. (b), was repealed by act Aug. 28, 1954, ch. 1041, title III, § 304, 68 Stat. 902.

REPEALS

Act Aug. 28, 1954, ch. 1041, title III, § 304, 68 Stat. 902, repealed this section insofar as it is applicable to corn. Section has been made applicable to wheat by sections 1330(6) and 1340(6) of this title.

CROSS REFERENCES

Wheat marketing quotas, effect of increased acreage allotments, see section 1334 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1330, 1334, 1340 of this title.

§ 1327. Proclamation of commercial corn-producing area

Not later than February 1 of each calendar year, the Secretary shall ascertain and proclaim the commercial corn-producing area.

(Feb. 16, 1938, ch. 30, title III, § 327, 52 Stat. 51; Aug. 28, 1954, ch. 1041, title III, § 304, 68 Stat. 903.)

AMENDMENTS

1954—Act Aug. 28, 1954, eliminated the authority for mandatory marketing quotas for corn.

PROCLAMATIONS AFFIRMED

Effect of act Apr. 7, 1938, ch. 107, 52 Stat. 202, see note under section 1312 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1330, 1334, 1340 of this title.

§ 1328. Acreage allotment; proclamations

The acreage allotment of corn for any calendar year shall be that acreage in the commercial corn-producing area which, on the basis of the average yield for corn in such area during the five calendar years immediately preceding such calendar year, adjusted for abnormal weather conditions, will produce an amount of corn in such area which the Secretary determines will, together with corn produced in the United States outside the commercial corn-producing area and corn imported, make available a supply for the marketing year beginning in such calendar year, equal to the normal supply. The Secretary shall proclaim such acreage allotment not later than February 1 of the calendar year for which such acreage allotment was determined.

(Feb. 16, 1938, ch. 30, title III, § 328, 52 Stat. 52; Apr. 7, 1938, ch. 107, § 6, 52 Stat. 202; July 3, 1948, ch. 827, title II, § 207(a), 62 Stat. 1257; Oct. 31, 1949, ch. 792, title IV, § 409(f), 63 Stat. 1057; Aug. 28, 1954, ch. 1041, title III, § 305, 68 Stat. 903.)

CODIFICATION

Provision that proclamations of the acreage allotment for 1938 be made as soon as practicable after date of enactment of the Agricultural Adjustment Act of 1938 was omitted as executed.

AMENDMENTS

1954—Act Aug. 28, 1954, provided for computing commercial area allotments for corn on 5-year yield basis instead of 10-year yield basis, and eliminated adjustments for trends in yields.

1949—Act Oct. 31, 1949, substituted "normal supply" for "reserve supply level" at end of first sentence.

1948—Act July 3, 1948, required the Secretary to take imports into consideration in determining acreage allotments for the purposes of marketing quotas.

1938—Act Apr. 7, 1938, inserted in first sentence after "during the ten calendar years immediately preceding such calendar year" words "adjusted for abnormal weather conditions and trends in yield".

EFFECTIVE DATE OF 1948 AMENDMENT

Amendment of section by act July 3, 1948, effective Jan. 1, 1950, see section 303 of act July 3, 1948, set out as a note under section 1301 of this title.

PROCLAMATIONS AFFIRMED

Effect of act April 7, 1938, ch. 107, 52 Stat. 202, see note under section 1312 of this title.

CROSS REFERENCES

Acreage requirements for price support on corn and other feed grains, see section 1442 of this title.

Delegation of regulatory functions of Secretary of Agriculture, see section 450c et seq. of this title.

§ 1329. Apportionment of acreage allotment

(a) The acreage allotment for corn shall be apportioned by the Secretary among the counties in the commercial corn-producing area on the basis of the acreage seeded for the production of corn during the five calendar years immediately preceding the calendar year in which the apportionment is determined (plus, in applicable years, the acreage diverted under previous agricultural adjustment and conservation programs), with adjustments for abnormal weather conditions and for trends in acreage during such period and for the promotion of soil-conservation practices: *Provided,* That any downward adjustment for the promotion of soil-conservation practices shall not exceed 2 per centum of the total acreage allotment that would otherwise be made to such county.

(b) The acreage allotment to the county for corn shall be apportioned by the Secretary, through the local committees, among the farms within the county on the basis of tillable acreage, crop-rotation practices, type of soil, and topography.

(Feb. 16, 1938, ch. 30, title III, § 329, 52 Stat. 52; Aug. 28, 1954, ch. 1041, title III, § 306, 68 Stat. 903.)

AMENDMENTS

1954—Subsec. (a). Act Aug. 28, 1954 provided for apportionment of county acreage allotments for corn on 5-year yield basis and seeded acreages instead of 10-year yield basis and seeded acreage.

CROSS REFERENCES

Delegation of regulatory functions of Secretary of Agriculture, see section 450c et seq. of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1444a of this title.

§ 1329a. Discontinuance of acreage allotments on corn

Notwithstanding any other provision of law, acreage allotments and a commercial corn-producing area shall not be established for the 1959 and subsequent crops of corn.

(Feb. 16, 1938, ch. 30, title III, § 330, as added Oct. 31, 1949, ch. 792, title I, § 104(b)(1), as added Aug. 28, 1958, Pub. L. 85-835, title II, § 201, 72 Stat. 994).

1958 REFERENDUM FOR SELECTION OF ALTERNATIVE CORN PROGRAM; OPERATIVE STATUS OF CERTAIN PROVISIONS

Corn producers voted for adoption of price support program as provided in section 1444a(b) of this title (254,262) rather than alternative corn acreage allotment and price support program (102,907), the ballot making operative sections 1329a and 1444b and repeal of section 1441(d)(4) of this title.

§ 1330. Supplemental provisions relating to wheat marketing quotas; marketing penalty for cotton and rice; crop loans on cotton, wheat, rice, tobacco, and peanuts

Notwithstanding the other provisions of this chapter—

(1) The farm marketing quota under this chapter for any crop of wheat shall be the actual production of the acreage planted to wheat on the farm, less the normal production or the actual production, whichever is the smaller, of that acreage planted to wheat on the farm which is in excess of the farm acreage allotment for wheat.

The normal production, or the actual production, whichever is the smaller, of such excess acreage is hereinafter called the "farm marketing excess" of wheat. For the purposes of this section, "actual production" of any number of acres of wheat on a farm means the actual average yield of wheat for the farm times such number of acres.

(2) During any marketing year for which quotas are in effect, the producer shall be subject to a penalty on the farm marketing excess of wheat. The rate of the penalty on wheat shall be 45 per centum of the parity price per bushel of wheat as of May 1 of the calendar year in which the crop is harvested.

(3) The farm marketing excess for wheat shall be regarded as available for marketing, and the penalty and the storage amount or amounts to be delivered to the Secretary of the commodity shall be computed upon the normal production of the excess acreage. Where, upon the application of the producer for an adjustment of penalty or of storage, it is shown to the satisfaction of the Secretary that the actual production of the excess acreage is less than the normal production thereof, the difference between the amount of the penalty or storage as computed upon the basis of normal production and as computed upon the basis of actual production shall be returned to or allowed the producer. The Secretary shall issue regulations under which the farm marketing excess of the commodity for the farm may be stored or delivered to him. Upon failure to store or deliver to the Secretary the farm marketing excess within such time as may be determined under regulations prescribed by the Secretary, the penalty computed as aforesaid shall be paid by the producer. Any wheat delivered to the Secretary hereunder shall become the property of the United States and shall be disposed of by the Secretary for relief purposes in the United States or in foreign countries or in such other manner as he shall determine will divert it from the normal channels of trade and commerce.

(4) Until the producers on any farm store, deliver to the Secretary, or pay the penalty on the farm marketing excess of any crop of wheat, the entire crop of wheat produced on the farm shall be subject to a lien in favor of the United States for the amount of the penalty.

(5) The penalty upon wheat stored shall be paid by the producer at the time, and to the extent, of any depletion in the amount of the commodity so stored, except depletion resulting from some cause beyond the control of the producer.

(6) Whenever the planted acreage of the then current crop of wheat on any farm is less than the farm acreage allotment for such commodity, the total amount of the commodity from any previous crops required to be stored in order to postpone or avoid payment of penalty shall be reduced by that amount

which is equal to the normal production of the number of acres by which the farm acreage allotment exceeds the planted acreage. The provisions of section 1326(b) and (c) of this title shall be applicable to wheat.

(7) A farm marketing quota on wheat shall not be applicable to any farm on which the acreage planted to the commodity is not in excess of fifteen acres. The marketing penalty on wheat shall not be applicable to any farm which, under the terms of the then current agricultural conservation program formulated under sections 590g, 590h, 590i and 590j to 590q of title 16, is classified as a nonallotment farm if the acreage of the commodity harvested on such nonallotment farm is not in excess of fifteen acres or the acreage allotment for the farm, whichever is larger. If the acreage of the commodity harvested on any such nonallotment farm is in excess of fifteen acres and in excess of such acreage allotment, the normal production or the actual production, whichever is the smaller, of the acreage harvested in excess of fifteen acres or such acreage allotment, whichever is larger, shall be taken as the farm marketing excess and shall be subject to penalty: *Provided*, That there shall be no penalty on wheat harvested on any such nonallotment farm from which no wheat is sold if the acreage of wheat harvested on such farm does not exceed such acreage per family living thereon as may be used for home consumption without reducing the payment with respect to the farm under the then current agricultural conservation program: *Provided further*, That for the marketing year beginning in 1941, there shall be no marketing penalty on wheat with respect to any such nonallotment farm if the acreage of wheat harvested on the farm is not in excess of the usual acreage determined for the farm under the 1941 agricultural conservation program and the county committee determines, in accordance with regulations of the Secretary, that there will not be marketed an amount of wheat in excess of the 1941 farm marketing quota.

(8) Until the farm marketing excess of wheat is stored or delivered to the Secretary or the penalty thereon is paid, each bushel of the commodity produced on the farm which is sold by the producer to any person within the United States shall be subject to the penalty as specified in paragraph (2) of this section. Such penalty shall be paid by the buyer, who may deduct an amount equivalent to the penalty from the price paid to the producer.

(9) The marketing penalty for rice produced in the calendar year in which any marketing year begins (if beginning with or after the 1941-1942 marketing year) shall be at a rate equal to 50 per centum of the basic rate of the loan for cooperators for such marketing year under section 1302 of this title and this section.

(10) Omitted.

(11) The provisions of this section are amendatory of and supplementary to this chapter, and all provisions of law applicable in respect of marketing quotas and loans under such chapter as so amended and supplemented shall be applicable, but nothing in this section shall be construed to amend or repeal sections 1301(b)(6), 1323(b), or 1335(d) of this title.

(12) Notwithstanding any of the foregoing provisions, the farm marketing excess for any crop of wheat for any farm shall not be larger than the amount by which the actual production of such crop of wheat on the farm exceeds the normal production of the farm wheat-acreage allotment, if the producer establishes such actual production to the satisfaction of the Secretary. Where a downward adjustment in the amount of the farm marketing excess is made pursuant to the provisions of this paragraph, the difference between the amount of the penalty or storage as computed upon the farm marketing excess before such adjustment and as computed upon the adjusted farm marketing excess shall be returned to or allowed the producer.

(May 26, 1941, ch. 133, 55 Stat. 203; Dec. 26, 1941, ch. 626, § 2, 55 Stat. 860; Dec. 26, 1941, ch. 636, 55 Stat. 872; Aug. 29, 1949, ch. 518, § 3(b), 63 Stat. 676; July 14, 1953, ch. 194, § 3, 67 Stat. 151; Aug. 28, 1954, ch. 1041, title III, § 313, 68 Stat. 905.)

REFERENCES IN TEXT

Section 1302 of this title, referred to in par. (9), was repealed by act Oct. 31, 1949, ch. 792, title IV, § 414, 63 Stat. 1057.

Section 1323(b) of this title, referred to in par. (11), was repealed by act Aug. 28, 1954, ch. 104, title III, § 304, 68 Stat. 902.

Section 1335(d) of this title, referred to in par. (11), was repealed by act Aug. 8, 1961, Pub. L. 87-128, title I, § 122(e), 75 Stat. 297.

CODIFICATION

Section was not enacted as part of the Agricultural Adjustment Act of 1938, which comprises this chapter. Similar provisions are also set out as section 1340 of this title.

Par. (10), which directed the Commodity Credit Corporation to make loans upon the 1941 to 1946 cotton, wheat, rice, tobacco, and peanut crops for which producers did not disapprove marketing quotas at the rate of 85% of parity to cooperators and, to noncooperators, at the rate of 60% of the rate specified for cooperators and limited to that amount of the commodity as would be subject to penalty if marketed by the noncooperators, was omitted as executed.

AMENDMENTS

1954—Act Aug. 28, 1954, amended section generally to make it inapplicable to corn.

1953—Act July 14, 1953, omitted the penalty for marketing corn in excess of quotas and changed the penalty for marketing wheat in excess of quotas from 50 per cent of the basic loan rate on the commodity for cooperators to 45 per cent of the parity price.

1949—Par. (9). Act Aug. 29, 1949, deleted "cotton and" following "penalty for".

1941—Par. (10). Act Dec. 26, 1941, ch. 626, deleted "1941 crop of the commodities, cotton, corn, wheat, rice, or tobacco" and inserted in lieu thereof "1941, 1942, 1943, 1944, 1945 and 1946 crops of the commodities cotton, corn, wheat, rice, tobacco and peanuts" and deleted "for marketing year beginning in 1941" and inserted in lieu thereof "for the marketing year beginning in the calendar year in which such crop is harvested".

Par. (12). Act Dec. 26, 1941, ch. 636, added par. 12, effective May 26, 1941.

EFFECTIVE DATE OF 1953 AMENDMENT

Section 5 of act July 14, 1953, provided that the amendment to this section effected by said act "shall become effective with respect to the 1954 and subsequent crops of wheat."

EXCEPTIONS FROM TRANSFER OF FUNCTIONS

Functions of the Corporations of the Department of Agriculture, the boards of directors and officers of such corporations; the Advisory Board of the Commodity Credit Corporation; and the Farm Credit Administration or any agency, officer or entity of, under, or subject to the supervision of the said Administration were excepted from the functions of officers, agencies and employees transferred to the Secretary of Agriculture by 1953 Reorg. Plan No. 2, § 1, eff. June 4, 1953, 18 F.R. 3219, 67 Stat. 633, set out as a note under section 2201 of this title.

INAPPLICABILITY TO CROPS OF WHEAT PLANTED FOR HARVEST IN CALENDAR YEARS 1971 THROUGH 1977

Pub. L. 91-524, title IV, § 406, Nov. 30, 1970, 84 Stat. 1367, as amended by Pub. L. 93-86, § 1(13), Aug. 10, 1973, 87 Stat. 229, provided that: "Public Law 74, Seventy-seventh Congress (68 Stat. 905) [this section], shall not be applicable to the crops of wheat planted for harvest in the calendar years 1971 through 1977."

CROSS REFERENCES

Peanuts, see section 1359 of this title.

SUBPART III—MARKETING QUOTAS—WHEAT

§ 1331. Legislative finding of effect on interstate and foreign commerce and necessity of regulation

Wheat is a basic source of food for the Nation, is produced throughout the United States by more than a million farmers, is sold on the country-wide market and, as wheat or flour, flows almost entirely through instrumentalities of interstate and foreign commerce from producers to consumers.

Abnormally excessive and abnormally deficient supplies of wheat on the country-wide market acutely and directly affect, burden, and obstruct interstate and foreign commerce. Abnormally excessive supplies overtax the facilities of interstate and foreign transportation, congest terminal markets and milling centers in the flow of wheat from producers to consumers, depress the price of wheat in interstate and foreign commerce, and otherwise disrupt the orderly marketing of such commodity in such commerce. Abnormally deficient supplies result in an inadequate flow of wheat and its products in interstate and foreign commerce with consequent injurious effects to the instrumentalities of such commerce and with excessive increases in the prices of wheat and its products in interstate and foreign commerce.

It is in the interest of the general welfare that interstate and foreign commerce in wheat and its products be protected from such burdensome surpluses and distressing shortages, and that a supply of wheat be maintained which is adequate to meet domestic consumption and export requirements in years of drought, flood, and other adverse conditions as well as in years of plenty, and that the soil resources of the Nation be not wasted in the production of such burdensome surpluses. Such surpluses result in disastrously low prices of wheat and other grains to wheat producers, destroy the purchasing power of grain producers for industrial products, and reduce the value of the agricultural assets supporting the national credit structure. Such shortages of wheat result in unreasonably high prices of flour and bread to consumers and loss of market outlets by wheat producers.

The conditions affecting the production and marketing of wheat are such that, without Federal assistance, farmers, individually or in cooperation, cannot effectively prevent the recurrence of such surpluses and shortages and the burdens on interstate and foreign commerce resulting therefrom, maintain normal supplies of wheat, or provide for the orderly marketing thereof in interstate and foreign commerce.

Wheat which is planted and not disposed of prior to the date prescribed by the Secretary for the disposal of excess acres of wheat is an addition to the total supply of wheat and has a direct effect on the price of wheat in interstate and foreign commerce and may also affect the supply and price of livestock and livestock products. In the circumstances, wheat not disposed of prior to such date must be considered in the same manner as mechanically harvested wheat in order to achieve the policy of the chapter.

The diversion of substantial acreages from wheat to the production of commodities which are in surplus supply or which will be in surplus supply if they are permitted to be grown on the diverted acreage would burden, obstruct, and adversely affect interstate and foreign commerce in such commodities, and would adversely affect the prices of such commodities in interstate and foreign commerce. Small changes in the supply of a commodity could create a sufficient surplus to affect seriously the price of such commodity in interstate and foreign commerce. Large changes in the supply of such commodity could have a more acute effect on the price of the commodity in interstate and foreign commerce and, also, could overtax the handling, processing, and transportation facilities through which the flow of interstate and foreign commerce in such commodity is directed. Such adverse effects caused by overproduction in one year could further result in a deficient supply of the commodity in the succeeding year, causing excessive increases in the price of the commodity in interstate and foreign commerce in such year. It is, therefore, necessary to prevent acreage diverted from the production of wheat to be used to produce commodities which are in surplus supply or which will be in surplus supply if they are permitted to be grown on the diverted acreage.

The provisions of this subpart affording a cooperative plan to wheat producers are necessary in order to minimize recurring surpluses and shortages of wheat in interstate and foreign commerce, to provide for the maintenance of adequate reserve supplies thereof, to provide for an adequate and orderly flow of wheat and its products in interstate and foreign commerce at prices which are fair and reasonable to farmers and consumers, and to prevent acreage diverted from the production of wheat from adversely affecting other commodities in interstate and foreign commerce.

(Feb. 16, 1938, ch. 30, title III, § 331, 52 Stat. 52; Sept. 27, 1962, Pub. L. 87-703, title III, § 310, 76 Stat. 618.)

AMENDMENTS

1962—Pub. L. 87-703 provided additional findings respecting the addition of wheat to total supply of wheat and effect of such addition on price of wheat and supply and price of livestock and livestock products, the need to prevent the use of acreage diverted from wheat production to produce other commodities in surplus supply and the consequences of a small or large change in the supply of a commodity and the necessity of a cooperative plan to wheat producers to provide for flow of wheat at fair and reasonable prices to farmers and consumers and to prevent diverted acreage from production of wheat from adversely affecting other commodities in interstate and foreign commerce.

EFFECTIVE DATE OF 1962 AMENDMENT

Amendment by Pub. L. 87-703 effective only with respect to programs applicable to the crops planted for harvest in the calendar year 1964, or any subsequent year and the marketing years beginning in the calendar year 1964, or any subsequent year, see section 323 of Pub. L. 87-703, set out as a note under section 1301 of this title.

INAPPLICABILITY TO 1971 THROUGH 1977 CROPS OF WHEAT

Pub. L. 91-524, title IV, § 404(1), Nov. 30, 1970, 84 Stat. 1366, as amended by Pub. L. 93-86, § 1(11), Aug. 10, 1973, 87 Stat. 229, provided that this section is not applicable to the 1971 through 1977 crops of wheat.

§ 1332. National marketing quota

(a) Proclamation; duration of program

Whenever prior to April 15 in any calendar year the Secretary determines that the total supply of wheat in the marketing year beginning in the next succeeding calendar year will, in the absence of a marketing quota program, likely be excessive, the Secretary shall proclaim that a national marketing quota for wheat shall be in effect for such marketing year and for either the following marketing year or the following two marketing years, if the Secretary determines and declares in such proclamation that a two- or three-year marketing quota program is necessary to effectuate the policy of the chapter.

(b) Amount; minimum

If a national marketing quota for wheat has been proclaimed for any marketing year, the Secretary shall determine and proclaim the amount of the national marketing quota for such marketing year not earlier than January 1 or later than April 15 of the calendar year preceding the year in which such marketing year begins. The amount of the national marketing quota for wheat for any marketing year shall be an amount of wheat which the Secretary estimates (i) will be utilized during such marketing year for human consumption in the United States as food, food products, and beverages, composed wholly or partly of wheat, (ii) will be utilized during such marketing year in the United States for seed, (iii) will be exported either in the form of wheat or products thereof, and (iv) will be utilized during such marketing year in the United States as livestock (including poultry) feed, excluding the estimated quantity of wheat which will be utilized for such purpose as a result of the substitution of wheat for feed grains under section 1339c of this title; less (A) an amount of wheat equal to the estimated imports of wheat into the United States during such marketing year and, (B) if the stocks of wheat owned by the Commodity Credit Corporation are determined by the Secretary to be excessive, an amount of wheat determined by the Secretary to be a desirable reduction in such marketing year in such stocks to achieve the policy of the chapter: *Provided*, That if the Secretary determines that the total stocks of wheat in the Nation are insufficient to assure an adequate carryover for the next succeeding marketing year, the national marketing quota otherwise determined shall be increased by the amount the Secretary determines to be necessary to assure an adequate carryover: *And provided further*, That the national marketing quota for wheat for any marketing year shall be not less than one billion bushels.

(c) National emergencies or material increase in demand; investigation; increase or termination

If, after the proclamation of a national marketing quota for wheat for any marketing year, the Secretary has reason to believe that, because of a national emergency or because of a material increase in the demand for wheat, the national marketing quota should be terminated or the amount thereof increased, he shall cause an immediate investigation to be made to determine whether such action is necessary in order to meet such emergency or increase in the demand for wheat. If, on the basis of such investigation, the Secretary finds that such action is necessary, he shall immediately proclaim such finding and the amount of any such increase found by him to be necessary and thereupon such national marketing quota shall be so increased or terminated. In case any national marketing quota is increased under this subsection, the Secretary shall provide for such increase by increasing acreage allotments established under this subpart by a uniform percentage.

(Feb. 16, 1938, ch. 30, title III, § 332, 52 Stat. 53; Aug. 28, 1954, ch. 1041, title III, § 307, 68 Stat. 903; Sept. 27, 1962, Pub. L. 87-703, title III, § 311, 76 Stat. 619; Nov. 3, 1965, Pub. L. 89-321, title V, § 501(1), 79 Stat. 1199; Oct. 11, 1968, Pub. L. 90- 559, § 1(1), 82 Stat. 996.)

CODIFICATION

Subsec. (d), which directed the Secretary to proclaim a national marketing quota for wheat crops for 1966 through 1970 notwithstanding any other provision of this chapter and provided that farm marketing quotas would not be in effect for such crops, was omitted as executed.

AMENDMENTS

1968—Subsec. (d). Pub. L. 90-559 provided for a one year extension through 1970.

1965—Subsec. (b). Pub. L. 89-321 changed item (iv) from the average amount of wheat which was used for livestock feed during 1959-60 to the amount which will be utilized during the marketing year for which the quota is being determined for livestock feed, excluding the estimated quantity of wheat which will be utilized for such purpose as a result of the substitution of wheat for feed grains under section 1339c of this title.

Subsec. (d). Pub. L. 89-321 added subsec. (d).

1962—Pub. L. 87-703 substituted provisions for proclamation of a national marketing quota upon a determination made prior to April 15 in any calendar year, the duration of such a program, the amount of, including the minimum, quota, and investigation of stocks to increase or terminate the quota during national emer-

gencies or material increase in demand for provision for proclamation, not later than May 15 of each calendar year, of a national marketing quota for the crop produced in the next calendar year.

1954—Act Aug. 28, 1954, eliminated proclamations relating to supplies, and changed proclamation date from July 15 to May 15.

EFFECTIVE DATE OF 1965 AMENDMENT

Section 501 of Pub. L. 89-321 provided in part that the amendment of this section and sections 1333, 1334, 1335 and 1339 of this title by Pub. L. 89-321 shall be effective beginning with the crop planted for harvest in the calendar year 1966.

EFFECTIVE DATE OF 1962 AMENDMENT

Amendment made by section 311 of Pub. L. 87-703 effective only with respect to programs applicable to the crops planted for harvest in the calendar year 1964, or any subsequent year and the marketing years beginning in the calendar year 1964, or any subsequent year, see section 323 of Pub. L. 87-703, set out as a note under section 1301 of this title.

INAPPLICABILITY TO 1971 THROUGH 1977 CROPS OF WHEAT

Pub. L. 91-524, title IV, § 404(1), Nov. 30, 1970, 84 Stat. 1366, as amended by Pub. L. 93-86, § 1(11), Aug. 10, 1973, 87 Stat. 229, provided that this section is not applicable to the 1971 through 1977 crops of wheat.

1965 CROP NATIONAL MARKETING QUOTA AND CROP ACREAGE ALLOTMENT

Section 201 of Pub. L. 88-297, title II, Apr. 11, 1964, 78 Stat. 178, directed the Secretary to not proclaim a national marketing quota for the 1965 crop of wheat and that farm marketing quotas shall not be in effect for such crop of wheat, and required the Secretary to proclaim a national acreage allotment for the 1965 crop of wheat which shall be the number of acres which he determined would make available an adequate supply of wheat, but not less than forty-nine million five hundred thousand acres.

DEFERRAL OF PROCLAMATION FOR 1963 CROP

Pub. L. 87-485, June 15, 1962, 76 Stat. 103, authorized the Secretary of Agriculture to defer until July 15, 1962, any proclamation under this section with respect to a national acreage allotment for the 1963 crop of wheat and any proclamation under section 1335 of this title with respect to marketing quotas for such crop of wheat.

Pub. L. 87-450, May 15, 1962, 76 Stat. 69, authorized the Secretary of Agriculture to defer until June 15, 1962, any proclamation under this section with respect to a national acreage allotment for the 1963 crop of wheat and any proclamation under section 1335 of this title for such crop of wheat.

DEFERRAL OF PROCLAMATION FOR 1960 CROP

Pub. L. 86-27, May 15, 1959, 73 Stat. 25, authorized the Secretary of Agriculture to defer until June 1, 1959, any proclamation under this section with respect to a national acreage allotment for the 1960 crop of wheat; and any proclamation under section 1335 of this title with respect to marketing quotas for such crop of wheat.

§ 1333. National acreage allotment

The Secretary shall proclaim a national acreage allotment for each crop of wheat. The amount of the national acreage allotment for any crop of wheat shall be the number of acres which the Secretary determines on the basis of the projected national yield and expected underplantings (acreage other than that not harvested because of program incentives) of farm acreage allotments will produce an amount of wheat equal to the national marketing quota for wheat for the marketing year for such crop, or if a national marketing quota was not proclaimed, the quota which would have been determined if one had been proclaimed.

(Feb. 16, 1938, ch. 30, title III, § 333, 52 Stat. 53; June 20, 1938, ch. 518, 52 Stat. 775; July 26, 1939, ch. 377, 53 Stat. 1125; July 3, 1948, ch. 827, title II, § 207(b), 62 Stat. 1257; Sept. 27, 1962, Pub. L. 87-703, title III, § 312, 76 Stat. 620; Nov. 3, 1965, Pub. L. 89-321, title V, § 501(2), 79 Stat. 1199.)

AMENDMENTS

1965—Pub. L. 89-321 substituted projected national yield for expected yield in the determination of the basis to be used in arriving at the national acreage allotment, inserted limiting parenthetical reference to acreage other than that harvested because of program incentives, and struck out references to expected production on the increases in acreage allotments for farms based upon small-farm base acreages pursuant to section 1335 of this title and to the expected production on the increased acreages resulting from the small-farm exemption pursuant to section 1335 of this title.

1962—Pub. L. 87-703 substituted provision for proclamation of a national acreage allotment at the time of proclamation of the national marketing quota in an amount that would be the number of acres which on the basis of expected yields would, together with the expected production on increases in acreage allotments for small farms and on increased acreages resulting from the small-farm exemption, make available a supply equal to the national marketing quota for provision for determination of the national acreage allotment as such acreage as on the basis of the national average yield would produce an amount, which, with estimated carryover and imports, would make available a supply equal to a normal year's domestic consumption and exports plus 30 per centum and prescribing a national acreage allotment for wheat for 1938 at sixty-two million five hundred thousand acres and for any year at not less than fifty-five million acres.

1948—Act July 3, 1948, required the Secretary to take imports into consideration in determining acreage allotments for the purposes of marketing quotas.

1939—Act July 26, 1939, amended last sentence.

1938—Act June 20, 1938, added last sentence.

EFFECTIVE DATE OF 1965 AMENDMENT

Amendment by Pub. 89-321 effective beginning with the crop planted for harvest in the calendar year 1966. See section 501 of Pub. L. 89-321, set out as a note under section 1332 of this title.

EFFECTIVE DATE OF 1962 AMENDMENT

Amendment by Pub. L. 87-703 effective only with respect to programs applicable to the crops planted for harvest in the calendar year 1964, or any subsequent year and the marketing years beginning in the calendar year 1964, or any subsequent year, see section 323 of Pub. L. 87-703, set out as a note under section 1301 of this title.

EFFECTIVE DATE OF 1948 AMENDMENT

Amendment by act July 3, 1948, effective Jan. 1, 1950, see section 303 of act July 3, 1948, set out as a note under section 1301 of this title.

INAPPLICABILITY TO 1972 THROUGH 1977 CROPS OF WHEAT

Pub. L. 91-524, title IV, § 404(2), Nov. 30, 1970, 84 Stat. 1366, as amended by Pub. L. 93-86, § 1(11), Aug. 10, 1973, 87 Stat. 229, provided that this section is not applicable to the 1972 through 1977 crops of wheat.

1965 CROP ACREAGE ALLOTMENT

Proclamation of a national acreage allotment for 1965 crop of wheat that will make available an adequate supply of wheat but shall not be less than forty-nine million five hundred thousand acres, see section 201 of Pub. L. 88-297 set out as a note under section 1332 of this title.

CROSS REFERENCES

Delegation of regulatory functions of Secretary of Agriculture, see section 450c et seq. of this title.

§ 1334. Apportionment of national acreage allotment

(a) Apportionment among States; special acreage reserve

The national allotment for wheat, less a reserve of not to exceed 1 per centum thereof for apportionment as provided in this subsection and less the special acreage reserve provided for in this subsection, shall be apportioned by the Secretary among the States on the basis of the preceding year's allotment for each such State, including all amounts allotted to the State and including for 1967 the increased acreage in the State allotted for 1966 under section 1335 of this title, adjusted to the extent deemed necessary by the Secretary to establish a fair and equitable apportionment base for each State, taking into consideration established crop rotation practices, estimated decrease in farm allotments because of loss of history, and other relevant factors. The reserve acreage set aside herein for apportionment by the Secretary shall be used (1) to make allotments to counties in addition to the county allotments made under subsection (b) of this section, on the basis of the relative needs of counties for additional allotments because of reclamation and other new areas coming into production of wheat, or (2) to increase the allotment for any county, in which wheat is the principal grain crop produced, on the basis of its relative need for such increase if the average ratio of wheat acreage allotment to cropland on old wheat farms in such county is less by at least 20 per centum than such average ratio on old wheat farms in an adjoining county or counties in which wheat is the principal grain crop produced or if there is a definable contiguous area consisting of at least 10 per centum of the cropland acreage in such county in which the average ratio of wheat acreage allotment to cropland on old wheat farms is less by at least 20 per centum than such average ratio on the remaining old wheat farms in such county, provided that such low ratio of wheat acreage allotment to cropland is due to the shift prior to 1951 from wheat to one or more alternative income-producing crops which, because of plant disease or sustained loss of markets, may no longer be produced at a fair profit and there is no other alternative income-producing crop suitable for production in the area or county. The increase in the county allotment under clause (2) of the preceding sentence shall be used to increase allotments for old wheat farms in the affected area to make such allotments comparable with those on similar farms in adjoining areas or counties but the average ratio of increased allotments to cropland on such farms shall not exceed the average ratio of wheat acreage allotment to cropland on old wheat farms in the adjoining areas or counties. There also shall be made available a special acreage reserve of not in excess of one million acres as determined by the Secretary to be desirable for the purposes hereof which shall be in addition to the national acreage reserve provided for in this subsection. Such special acreage reserve shall be made available to the States to make additional allotments to counties on the basis of the relative needs of counties, as determined by the Secretary, for additional allotments to make adjustments in the allotments on old wheat farms (that is, farms on which wheat has been seeded or regarded as seeded to one or more of the three crops immediately preceding the crop for which the allotment is established) on which the ratio of wheat acreage allotment to cropland on the farm is less than one-half the average ratio of wheat acreage allotment to cropland on old wheat farms in the county. Such adjustments shall not provide an allotment for any farm which would result in an allotment-cropland ratio for the farm in excess of one-half of such county average ratio and the total of such adjustments in any county shall not exceed the acreage made available therefor in the county. Such apportionment from the special acreage reserve shall be made only to counties where wheat is a major income-producing crop, only to farms on which there is limited opportunity for the production of an alternative income-producing crop, and only if an efficient farming operation on the farm requires the allotment of additional acreage from the special acreage reserve. For the purposes of making adjustments hereunder the cropland on the farm shall not include any land developed as cropland subsequent to the 1963 crop year.

(b) Apportionment among counties

The State acreage allotment for wheat, less a reserve of not to exceed 3 per centum thereof for apportionment as provided in subsection (c) of this section, shall be apportioned by the Secretary among the counties in the State, on the basis of the preceding year's wheat allotment in each such county, including for 1967 the increased acreage in the county allotted for 1966 pursuant to section 1335 of this title, adjusted to the extent deemed necessary by the Secretary in order to establish a fair and equitable apportionment base for each county, taking into consideration established crop rotation practices, estimated decrease in farm allotments because of loss of history, and other relevant factors.

(c) Apportionment among farms; overplanted allotments; reductions; notice

(1) The allotment to the county shall be apportioned by the Secretary, through the local committees, among the farms within the county on the basis of past acreage of wheat, tillable acres, crop-rotation practices, type of soil, and topography. Not more than 3 per centum of the State allotment shall be apportioned to farms on which wheat has not been planted during any of the three marketing years immediately preceding the marketing year in which the allotment is made. For the purpose of establishing farm acreage allotments—(i) the past acreage of wheat on any

farm for 1958 or 1965 shall be the base acreage determined for the farm under the regulations issued by the Secretary for determining 1958 or 1965 farm wheat acreage allotments; (ii) if subsequent to the determination of such base acreage the 1958 or 1965 wheat acreage allotment for the farm is increased through administrative, review, or court proceedings, the 1958 or 1965 farm base acreage shall be increased in the same proportion; and (iii) the past acreage of wheat for 1959 and any subsequent year except 1965 shall be the wheat acreage on the farm which is not in excess of the farm wheat acreage allotment, plus, in the case wheat acreage on the farm which is not in excess of wheat acreage allotment, the acreage diverted under such wheat allotment programs: *Provided,* That for 1959 and subsequent years in the case of any farm on which the entire amount of the farm marketing excess is delivered to the Secretary or stored in accordance with applicable regulations to avoid or postpone payment of the penalty, the past acreage of wheat for the year in which such farm marketing excess is so delivered or stored shall be the farm base acreage of wheat determined for the farm under the regulations issued by the Secretary for determining farm wheat acreage allotments for such year, but if any part of the amount of wheat so stored is later depleted and penalty becomes due by reason of such depletion, for the purpose of establishing farm wheat acreage allotments subsequent to such depletion the past acreage of wheat for the farm for the year in which the excess was produced shall be reduced to the farm wheat acreage allotment for such year.

(2) Notwithstanding any other provision of law, each old or new farm acreage allotment for the 1962 crop of wheat as determined on the basis of a minimum national acreage allotment of fifty-five million acres shall be reduced by 10 per centum.

(3) Notwithstanding the provisions of paragraph (1) of this subsection, the past acreage of wheat for 1967 and any subsequent year shall be the acreage of wheat planted, plus the acreage regarded as planted, for harvest as grain on the farm which is not in excess of the farm acreage allotment.

(4) Notwithstanding any other provision of this subsection (c), the farm acreage allotment for the 1967 and any subsequent crop of wheat shall be established for each old farm by apportioning the county wheat acreage allotment among farms in the county on which wheat has been planted, or is considered to have been planted, for harvest as grain in any one of the three years immediately preceding the year for which allotments are determined on the basis of past acreage of wheat and the farm acreage allotment for the year immediately preceding the year for which the allotment is being established, adjusted as hereinafter provided. For purposes of this paragraph, the acreage allotment for the immediately preceding year may be adjusted to reflect established crop-rotation practices, may be adjusted downward to reflect a reduction in the tillable acreage on the farm, and may be adjusted upward to reflect such other factors as the Secretary determines should be considered for the purpose of establishing a fair and equitable allotment: *Provided,* That (i) for the purposes of computing the allotment for any year, the acreage allotment for the farm for the immediately preceding year shall be decreased by 7 per centum if for the year immediately preceding the year for which such reduction is made neither a voluntary diversion program nor a voluntary certificate program was in effect and there was noncompliance with the farm acreage allotment for such year; (ii) for purposes of clause (i), any farm on which the entire amount of farm marketing excess is delivered to the Secretary, stored, or adjusted to zero in accordance with applicable regulations to avoid or postpone payment of the penalty when farm marketing quotas are in effect, shall be considered in compliance with the allotment, but if any part of the amount of wheat so stored is later depleted and penalty becomes due by reason of such depletion, the allotment for such farm next computed after determination of such depletion shall be reduced by reducing the allotment for the immediately preceding year by 7 per centum; and (iii) for purposes of clause (i) if the Secretary determines that the reduction in the allotment does not provide fair and equitable treatment to producers on farms following special crop rotation practices, he may modify such reduction in the allotment as he determines to be necessary to provide fair and equitable treatment to such producers.

(d) Repealed. Pub. L. 89–321, title V, § 501(6), Nov. 3, 1965, 79 Stat. 1201

(e) Increase in acreage allotments and marketing quotas for class II durum wheat

If, with respect to the 1962 and 1963 crops of wheat, the Secretary determines that the acreage allotments of farms producing durum wheat are inadequate to provide for the production of a sufficient quantity of durum wheat to satisfy the demands therefor (but not including export demand involving a subsidy by, or a loss to, the Federal Government), he shall increase the farm marketing quotas and acreage allotments for such crop of wheat for farms located in counties in the States of North Dakota, Minnesota, Montana, South Dakota, and California, designated by the Secretary as counties which (1) are capable of producing durum wheat (class II), and (2) have produced such wheat for commercial food products during one or more of the five years immediately preceding the year in which such crop is harvested. The Secretary shall determine the percentage factor by which the average acreage of durum wheat (class II) produced during the last two-year period for which statistics are available (excluding any increases in durum wheat acreage as a result of increases in wheat acreage allotments authorized by this subsection) must be increased to satisfy such demand. The wheat acreage allotment for any farm established for such crop without regard to this subsection, after reduction in the case of the 1962 crop as required by subsection (c)(2) of this section (hereinafter referred to as the "original allotment"), shall be increased by an acreage computed by multiplying the average acreage of durum wheat (class II) on the farm during such two-year period (excluding any increase in the

acreage of durum wheat as a result of an increase in the wheat acreage allotment for the farm authorized by this subsection) by such percentage factor: *Provided*, That such increased allotment shall not exceed the cropland on the farm well suited to wheat. The increase in the wheat acreage allotment for any farm shall be conditioned upon the production of an acreage of durum wheat (class II) at least equal to the average acreage of such wheat produced during such two-year period plus the number of acres by which the allotment is increased. Any increases in wheat acreage allotments authorized by this subsection shall be in addition to the National, State, and county wheat acreage allotments, and such increases shall not be considered in establishing future State, county, and farm allotments. The provisions of sections 1326(b) and 1340(6) of this title, relating to the reduction of the storage amount of wheat shall apply to the allotment for the farm established without regard to this subsection and not to the increased allotment under this subsection. As used in this subsection the term "durum wheat" means durum wheat (class II) other than the varieties known as "Golden Ball" and "Peliss". Any farm receiving an increased allotment under this subsection shall not be required as a condition of eligibility for price support, or permitted, to participate in the special 1962 wheat program formulated under section 124 of the Agricultural Act of 1961, or section 307 of the Food and Agriculture Act of 1962. The Secretary shall give growers and millers of drum wheat and manufacturers of semolina products an opportunity to present their views and recommendations, prior to making any determination hereunder.

(f) Voluntary surrender of acreage allotment

Any part of any 1955, 1956, or 1957 farm wheat acreage allotment on which wheat will not be planted and which is voluntarily surrendered to the county committee shall be deducted from the allotment to such farm and may be reapportioned by the county committee to other farms in the same county receiving allotments in amounts determined by the county committee to be fair and reasonable on the basis of past acreage of wheat tillable acres, crop rotation practices, type of soil, and topography. If all of the allotted acreage voluntarily surrendered is not needed in the county, the county committee may surrender the excess acreage to the State committee to be used for the same purposes as the State acreage reserve under subsection (c) of this section. Any allotment transferred under this provision shall be regarded for the purposes of subsection (c) of this section as having been planted on the farm from which transferred rather than on the farm to which transferred, except that this shall not operate to make the farm from which the allotment was transferred eligible for an allotment as having wheat planted thereon during the three-year base period: *Provided*, That notwithstanding any other provisions of law, any part of any 1955, 1956, or 1957 farm acreage allotment may be permanently released in writing to the county committee by the owner and operator of the farm, and reapportioned as provided herein. Acreage surrendered, reapportioned under this subsection, and planted shall be credited to the State and county in determining future acreage allotments.

(g) Plantings in excess of allotments or where no allotment is established

Notwithstanding any other provision of law, no acreage in the commercial wheat-producing area seeded to wheat for harvest as grain in 1958 or thereafter except 1965 in excess of acreage allotments shall be considered in establishing future State and county acreage allotments. The planting on a farm in the commercial wheat-producing area of wheat of the 1958 or any subsequent crop for which no farm wheat acreage allotment was established shall not make the farm eligible for an allotment as an old farm pursuant to the first sentence of subsection (c) of this section nor shall such farm by reason of such planting be considered ineligible for an allotment as a new farm under the second sentence of such subsection.

(h) Omitted

(i) Increase in acreage allotments for any kind of wheat in short supply; storage reduction and land-use provisions inapplicable to such wheat

If, with respect to any crop of wheat, the Secretary finds that the acreage allotments of farms producing any type of wheat are inadequate to provide for the production of a sufficient quantity of such type of wheat to satisfy the demand therefor, the wheat acreage allotment for such crop for each farm located in a county designated by the Secretary as a county which (1) is capable of producing such type of wheat, and (2) has produced such type of wheat for commercial food products during one or more of the five years immediately preceding the year in which such crop is harvested, shall be increased by such uniform percentage as he deems necessary to provide for such quantity. No increase shall be made under this subsection in the wheat acreage allotment of any farm for any crop if any wheat other than such type of wheat is planted on such farm for such crop. Any increases in wheat acreage allotments authorized by this subsection shall be in addition to the National, State, and county wheat acreage allotments, and such increases shall not be considered in establishing future State, county, and farm allotments. The provisions of sections 1326(b) and 1340(6) of this title, relating to the reduction of the storage amount of wheat shall apply to the allotment for the farm established without regard to this subsection and not to the increased allotment under this subsection. The land-use provisions of section 1339 of this title shall not be applicable to any farm receiving an increased allotment under this subsection and the producers on such farms shall not be required to comply with such provisions as a condition of eligibility for price support.

(j) Increased durum wheat acreage allotments to Tulelake area, California, for 1970 and subsequent years; factors determinative; effect of increased allotments on marketing allocations and diversion payments

Notwithstanding any other provision of this chapter, the Secretary shall increase the acreage allotments for the 1970 and subsequent crops of wheat for privately owned farms in the irrigable portion of the area known as the Tule-

lake division of the Klamath project of California located in Modoc and Siskiyou Counties, California, as defined by the United States Department of the Interior, Bureau of Reclamation, and hereinafter referred to as the area. The increase for the area for each such crop shall be determined by adding, to the extent applications are made therefor, to the total allotments established for privately owned farms in the area for the particular crop without regard to this subsection (hereinafter referred to as the original allotments) an acreage sufficient to make available for each such crop a total allotment of twelve thousand acres for the area. The additional allotments made available by this subsection shall be in addition to the National, State, and county allotments otherwise established under this section, and the acreage planted to wheat pursuant to such increases in allotments shall not be taken into account in establishing future State, county, and farm acreage allotments except as may be desirable in providing increases in allotments for subsequent years under this subsection for the production of Durum wheat. The Secretary shall apportion the additional allotment acreage made available under this subsection between Modoc and Siskiyou Counties on the basis of the relative needs for additional allotments for the portion of the area in each county. The Secretary shall allot such additional acreage to individual farms in the area for which applications for increased acreages are made on the basis of tillable acres, crop rotation practices, type of soil and topography, and the original allotment for the farm, if any. The increase in the wheat acreage allotment for any farm under this subsection (1) shall not be taken into account in computing the farm wheat marketing allocation under section 1379b of this title, and (2) shall be conditioned upon the production of Durum wheat on the original allotment and on the increased acreage. The producers on a farm receiving an increased allotment under this subsection shall not be eligible for diversion payments under section 1339 of this title.

(k) Transfer of farm wheat acreage allotments in case of natural disasters

Notwithstanding any other provision of this chapter, if the Secretary determines that because of a natural disaster a portion of the farm wheat acreage allotments in a county cannot be timely planted or replanted, he may authorize the transfer of all or a part of the wheat acreage allotment for any farm in the county so affected to another farm in the county or in an adjoining county on which one or more of the producers on the farm from which the transfer is to be made will be engaged in the production of wheat and will share in the proceeds thereof, in accordance with such regulations as the Secretary may prescribe. Any farm allotment transferred under this subsection shall be deemed to be planted on the farm from which it was transferred for the purposes of acreage history credits under this chapter.

(Feb. 16, 1938, ch. 30, title III, § 334, 52 Stat. 53; Apr. 7, 1938, ch. 107, § 7, 52 Stat. 203; Feb. 6, 1942, ch. 44, § 2, 56 Stat. 52; July 14, 1953, ch. 194, § 1, 67 Stat. 151; Jan. 30, 1954, ch. 2, § 4, 68 Stat. 6; Aug. 28, 1954, ch. 1041, title III, § 308, 68 Stat. 903; Feb. 19, 1955, ch. 8, 69 Stat. 9; Mar. 16, 1956, ch. 86, 70 Stat. 50; May 28, 1956, ch. 327, title III, § 301, 70 Stat. 203; Aug. 7, 1956, ch. 1030, § 2, 70 Stat. 1117; Apr. 2, 1957, Pub. L. 85-13, 71 Stat. 10; Aug. 28, 1957, Pub. L. 85-203, § 2, 71 Stat. 477; Apr. 4, 1958, Pub. L. 85-366, § 1, 72 Stat. 78; May 1, 1958, Pub. L. 85-390, 72 Stat. 101; Feb. 16, 1938, ch. 30, title III, § 378(d), as added Aug. 28, 1958, Pub. L. 85-835, title V, § 501, 72 Stat. 996; Feb. 20, 1960, Pub. L. 86-385, 74 Stat. 4; Apr. 9, 1960, Pub. L. 86-419, 74 Stat. 39; Aug. 8, 1961, Pub. L. 87-128, title I, §§ 121, 125, 75 Stat. 296, 300; Oct. 4, 1961, Pub. L. 87-357, 75 Stat. 778; Sept. 27, 1962, Pub. L. 87-703, title III, §§ 308(a), 313, 76 Stat. 618, 620; July 17, 1963, Pub. L. 88-64, 77 Stat. 79; Apr. 11, 1964, Pub. L. 88-297, title II, § 202(1)-(5), 78 Stat. 178, 179; Nov. 3, 1965, Pub. L. 89-321, title V, § 501(3)-(7), 79 Stat. 1199-1201; Jan. 2, 1968, Pub. L. 90-243, 81 Stat. 781; Mar. 31, 1970, Pub. L. 91-220, 84 Stat. 86.)

CODIFICATION

Provision in subsec. (c)(2) requiring the mailing of new notices, showing the reduction mandated by subsec. (c)(2), to farm operators to whom notices of farm acreage allotments for the 1962 wheat crop had been mailed prior to Aug. 8, 1961, was omitted as executed.

Section 124 of the Agricultural Act of 1961, referred to in subsec. (e), is set out as a note under this section.

Section 307 of the Food and Agriculture Act of 1962, referred to in subsec. (e), is set out as a note under this section.

AMENDMENTS

1970—Subsec. (j). Pub. L. 91-220 removed the 1963 deadline on the Secretary's power to increase acreage allotments, empowering him to do so for the 1970 and subsequent wheat crops, made the area increase for each crop determinable, among other factors, by the extent to which applications are received therefor, removed requirement that acreage planted to wheat pursuant to increased allotments be considered in establishing future state, county and farm acreage allotments except where such consideration may be desirable in providing increased allotments for production of Durum wheat in subsequent years, conditioned wheat acreage allotments upon the production of Durum wheat on the original and increased acreage allotment, prohibited consideration of the increased acreage allotment in computing the farm wheat marketing allocation under section 1379b of this title, made producers on farms receiving increased allotments ineligible for diversion payments under section 1339 of this title, and struck out provisions prohibiting such producers from receiving price support, provisions making land use rules of section 1339 of this title inapplicable to farms receiving additional allotments, and provisions relating to 1962 and 1963 wheat crops.

1968—Subsec. (a). Pub. L. 90-243 added provisions allowing the Secretary to make additional use, with specified limitations, of the 1 percent national wheat acreage allotment reserve in counties which have wheat as the principal grain crop, an average ratio of wheat acreage allotment to cropland on old wheat farms at least 20 percent below that in an adjoining county or alternative ratio, a low ratio caused by a shift prior to 1951 from wheat to an alternative crop or crops which have become unprofitable because of plant disease or sustained loss of markets, and no alternative income-producing crop.

1965—Subsec. (a). Pub. L. 89-321, § 501(3), substituted the preceding year's allotment for the acreage seeded for the production of wheat over the preceding ten-year period as the basis for determining the state's

apportioned share of the national acreage allotment and made provision for a special acreage reserve to be apportioned only to counties where wheat is a major income-producing crop.

Subsec. (b). Pub. L. 89-321, § 501(4), substituted the county's allotment covering the preceding year for the acreage seeded for the production of wheat during the ten calendar years immediately preceding the calendar year in which the national acreage allotment is determined as the basis for determining the county's allotment.

Subsec. (c). Pub. L. 89-321, § 501(5), added pars. (3) and (4).

Subsec. (d). Pub. L. 89-321, § 501(6), repealed subsec. (d) dealing with farms on which the entire amount of the farm marketing excess has been delivered to the Secretary or stored in accordance with applicable provisions.

Subsec. (g). Pub. L. 89-321, § 501(7), struck out "except as prescribed in the provisos to the first sentence of subsections (a) and (b) respectively of this section" following "county acreage allotments."

1964—Subsec. (a). Pub. L. 88-297, § 202(1), provided (1) for the apportionment among the States of the national acreage allotment for wheat less the special acreage reserve; (2) that in establishing State acreage allotments, the acreage seeded for the production of wheat plus the acreage diverted for 1965 for any farm shall be the base acreage of wheat determined for the farm under regulations for determining farm wheat acreage allotments for 1965; and (3) beginning with the 1965 crop, a special acreage reserve and uses of such reserve and apportionment to counties of such reserve.

Subsec. (b). Pub. L. 88-297, § 202(2), provided that in establishing county acreage allotments, the acreage seeded for the production of wheat plus the acreage diverted for 1965 for any farm shall be the base acreage of wheat determined for the farm under regulations for determining farm wheat acreage allotments for 1965.

Subsec. (c)(1). Pub. L. 88-297, § 202(3), inserted in the third sentence, clauses (i) and (ii), "or 1965" following "1958" wherever appearing and in the third sentence, clause (iii), "except 1965" following "any subsequent year."

Subsec. (g). Pub. L. 88-297, § 202(4), inserted in the first sentence "except 1965" following "in 1958 or thereafter".

Subsec. (k). Pub. L. 88-297, § 202(5), added subsec. (k).

1963—Subsec. (h). There is no subsec. (h) for 1964 and Subsequent Wheat Crops. Pub. L. 87-703, § 313(2), redesignated former subsec. (i) (so designated through the 1963 Wheat Crop) as (h). Pub. L. 88-64, § 1(a), redesignated former subsec. (i) (so designated through the 1963 Wheat Crop) as (j).

Subsec. (i). Pub. L. 88-64, § 1(a), redesignated former subsec. (i) (so designated through the 1963 Wheat Crop) as (j). Pub. L. 87-703, § 313(4), added subsec. (i) (effective with the 1964 Wheat Crop). See 1962 Amendment note hereunder.

Subsec. (j). Pub. L. 88-64 redesignated former subsec. (i) (so designated through the 1963 Wheat Crop) as (j), inserted "privately owned" preceding "farms" in the first and second sentences and increased from eight to twelve thousand acres the total acreage allotment for each crop.

1962—Subsec. (e). Pub. L. 87-703, §§ 308(a), 313(1), inserted provision respecting participation in the special wheat program formulated under section 307 of the Food and Agriculture Act of 1962 and substituted "the 1962 and 1963 crops" for "any of the 1962, 1963, and 1964 crops", respectively.

Subsec. (g). Pub. L. 87-703, § 313(2), redesignated former subsec. (h) as (g). Former subsec. (g), which related to weather conditions, underplanting, and subnormal production affecting acreage allotments, was repealed by such section 313(2) and is now covered by section 1377 of this title.

Subsec. (h). Pub. L. 87-703, § 313 (2), (3), redesignated former subsec. (i) as (h) and inserted the sentence "The land-use provisions of section 1339 of this title shall not be applicable to any farm receiving an additional allotment under this subsection." Former subsec. (h) redesignated (g). See Effective Date of 1962 Amendment note hereunder making the changes effective with the 1964 Wheat Crop. Pub. L. 88-64, § 1(a), redesignated former subsec. (i) (so designated through the 1963 Wheat Crop) as (j). There is no subsec. (h) for 1964 and Subsequent Wheat Crops. See 1963 Amendment note hereunder.

Subsec. (i). Pub. L. 87-703, § 313(4), added subsec. (i). Former subsec. (i) redesignated (h). See subsec. (h) note.

1961—Subsec. (c). Pub. L. 87-128, § 121, designated existing provisions as par. (1) and added par. (2).

Subsec. (e). Pub. L. 87-128, § 125, authorized the Secretary to increase durum wheat acreage allotment during 1962, 1963, and 1964 crops of wheat when he determines that acreage allotments established for durum wheat farms will be inadequate to produce a sufficient quantity of durum wheat to meet demand therefor, not including export demand involving a subsidy by or loss to the Federal Government, by such percentage factor as is determined to be necessary to provide for the increase in quantity the increase not to exceed the cropland on the farm well suited to wheat and to be conditioned upon the production of an acreage of durum wheat (class II) at least equal to the average acreage of such wheat produced during prescribed two-year period plus the number of acres by which the allotment is increased, provided that any farm receiving an increased durum wheat allotment shall not be required as a condition of price support, or permitted, to participate in the special 1962 wheat diversion program, and required the Secretary to become familiar with the views and recommendations of durum wheat grower and millers and manufacturers of semolina products prior to making any determinations. Former provisions of the subsection related to increase in allotment for durum wheat farms for 1957 crop of wheat, conditioned upon the production of durum wheat (class II) on the increased acreage and determined by adding to the allotment established without regard to subsec. (e) an acreage equal to the acreage by which the original allotment exceeded the 1957 acreage on the farm of classes of wheat other than durum wheat (class II), but not exceeding the smaller of the cropland on the farm well suited to wheat or the wheat acreage on the farm.

Subsec. (i). Pub. L. 87-357 substituted "1958 through 1963" for "1958 through 1961", and excluded from any general reduction in farm acreage allotments or farm acreage diversion program for the 1962 or 1963 wheat crop, the farms for which acreage allotments are increased under the provisions hereof, unless such reduction is specifically made applicable.

1960—Subsec. (d). Pub. L. 86-419 added subsec. (d).

Subsec. (i). Pub. L. 86-385 substituted "1958 through 1961" for "1958 and 1959".

1958—Subsec. (a). Pub. L. 85-366, § 1(1), added proviso that in establishing State acreage allotments acreage seeded plus acreage diverted for 1959 and subsequent years for farm on which entire marketing excess is delivered to Secretary or stored to avoid penalty shall be base acreage determined for farm by Secretary's regulations for such year, but if such stored wheat is subsequently depleted, resulting in penalty, farm's seeded plus diverted acreage for year excess was produced shall be reduced to acreage allotment for such year.

Subsec. (b). Pub. L. 85-366, § 1(2), added proviso that in establishing county acreage allotments acreage seeded plus acreage diverted for 1959 and subsequent years for farm on which entire marketing excess is delivered to Secretary or stored to avoid penalty shall be base acreage determined for farm by Secretary's regulations for such year, but if such stored wheat is subsequently depleted, resulting in penalty, farm's seeded

plus diverted acreage for year excess was produced shall be reduced to acreage for such year.

Subsec. (c). Pub. L. 85-366, § 1(3), added sentence relating to establishment of farm acreage allotment for 1958 and past acreage for 1959 and subsequent years, with the proviso that for 1959 and subsequent years, any farm on which entire marketing excess is delivered to Secretary or stored to avoid penalty, the past acreage for the year of delivery or storage shall be the base acreage determined for farm by Secretary's regulations for such year, but if such stored wheat is subsequently depleted, resulting in penalty, past acreage of wheat for year excess was produced shall be reduced to farm allotment for such year.

Subsec. (d). Act Feb. 16, 1938, § 378(d), as added by Pub. L. 85-835, repealed subsec. (d) which related to adjustment of allotment upon acquisition of part of farms by United States for defense.

Subsec. (h). Pub. L. 85-366, § 1(4), substituted "future State and county acreage allotments except as prescribed in the provisos to the first sentence of subsections (a) and (b), respectively, of this section" for "future State, county, and farm acreage allotments".

Subsec. (i). Pub. L. 85-390 added subsec. (i).

1957—Subsec. (e). Pub. L. 85-13 substituted "1957" for "1956" in two places, substituted "1952 through 1956" for "1951 through 1955", prohibited increase of acreage allotment under subsec. (e) by more than 60 acres, added clause providing for fixing "farm acreage allotment" as allotment established without regard to subsec. (e) and clause providing for counting each acre planted to durum wheat as one-half acre of wheat for application of section 1821(a)(1) of this title, and added provision that "wheat acreage on the farm" includes acreage in the wheat acreage report.

Subsec. (h). Pub. L. 85-203 added subsec. (h).

1956—Subsec. (e). Act Mar. 16, 1956, extended increased durum allotment to the 1956 crop and to certain counties in California, shortened the production history from 10 to 5 years and advanced it 1 year to include 1955, and made increased durum allotment dependent upon reduced planting of other wheat.

Subsec. (f). Act May 28, 1956, substituted "1955, 1956, or 1957" for "1955", in two instances.

Subsec. (g). Act Aug. 7, 1956, added subsec. (g).

1955—Subsec. (e). Act Feb. 19, 1955, removed for 1955, requirements restricting increased acreage allotments to producers who devote a normal share of their original allotment to durum and who have produced durum in 1 or more of the preceding 3 years.

1954—Subsec. (e). Act Jan. 30, 1954, added subsec. (e).

Subsec. (f). Act Aug. 28, 1954, added subsec. (f).

1953—Subsec. (a). Act July 14, 1953, provided a reserve of up to 1 percent of the national acreage allotment for counties in which new areas have come into production.

Subsec. (b). Act July 14, 1953, provided for a 3 percent reserve of State acreage allotments for new farms.

Subsec. (c). Act July 14, 1953, recognized the use of past acreage as a factor in making farm allotments and placed the reserves for new farms on a State basis instead of a county basis.

Subsec. (d). Act July 14, 1953, made the provision relating to farms acquired for national-defense purposes apply to farms acquired in 1950 or thereafter instead of 1940 or thereafter.

1942—Subsec. (d). Act Feb. 6, 1942, added subsec. (d).

1938—Subsec. (b). Act Apr. 7, 1938, struck out "net" preceding "acreage diverted" from the parenthetical provision.

Effective Date of 1965 Amendment

Amendment by Pub. L. 89-321 effective beginning with the crop planted for harvest in the calendar year 1966, see section 501 of Pub. L. 89-321, set out as a note under section 1332 of this title.

Effective Date of 1962 Amendment

Amendment made by section 313 of Pub. L. 87-703 effective only with respect to programs applicable to the crops planted for harvest in the calendar year 1964, or any subsequent year and the marketing years beginning in the calendar year 1964, or any subsequent year, see section 323 of Pub. L. 87-703, set out as a note under section 1301 of this title.

Effective Date of 1956 Amendment

Act Aug. 7, 1956, provided in part that the amendment to this section by that act shall be effective beginning with the 1957 crop of wheat.

Effective Date of 1955 Amendment

Act Feb. 19, 1955, provided in part that the amendment to subsec. (e) by that act shall be effective beginning with the 1955 crop of wheat.

Effective Date of 1953 Amendment

Section 5 of act July 15, 1953, provided that the amendments to this section made by that act "shall become effective with respect to the 1954 and subsequent crops of wheat".

Savings Clause

Transfer or reassignment of allotment as remaining in effect and ineligibility of displaced farm owner for additional allotment notwithstanding repeal of subsec. (d), see note under section 1378 of this title.

Inapplicability to 1972 Through 1977 Crops of Wheat

Pub. L. 91-524, title IV, § 404(2), Nov. 30, 1970, 84 Stat. 1366, as amended by Pub. L. 93-86, § 1(11), Aug. 10, 1973, 87 Stat. 229, provided that this section is not applicable to the 1972 through 1977 crops of wheat.

Farm Acreage Allotments for 1966 Crop of Wheat

Section 512 of Pub. L. 89-321 required the national, State, county, and farm acreage allotments for the 1966 crop of wheat to be established in accordance with the provisions of law in effect prior to Nov. 3, 1965.

1963 Diverted Wheat Acreage Program

Section 307 of Pub. L. 87-703 provided that payments were authorized to be made in cash or wheat by the Commodity Credit Corporation to producers on any farm, except farms with new farm wheat allotments, if marketing quotas were in effect for the 1963 wheat crop, if they diverted certain acreage from wheat production, and if they devoted such acreage to conservation uses; that such acreage was to be in addition to acreage diverted to conservation uses for which payment was made under other federal programs although cost-sharing payments under the agricultural conservation program or the Great Plains program were not precluded; that advance payments up to fifty per cent could be made; that wheat stored to avoid a marketing quota penalty was not to be released for underplanting based on such diverted acreage; that the Secretary could promulgate regulations; and that the Commodity Credit Corporation could use its capital funds and assets to make payments.

Applicability of 1963 Diverted Wheat Acreage Program to Increased Allotment Farms

Section 308(b) of Pub. L. 87-703 provided that the special wheat program formulated under section 307 of Pub. L. 87-703 [set out as a note above] was not applicable to any farm receiving an additional acreage allotment for wheat in short supply under section 334(i) of the Agricultural Adjustment Act of 1938, as amended [subsec. (i) of this section].

1962 Diverted Wheat Acreage Program

Section 124 of Pub. L. 87-128, as amended by Pub. L. 87-410, Mar. 3, 1962, 76 Stat. 19; Pub. L. 87-451, §§ 1 to

3, May 15, 1962, 76 Stat. 70, provided that producers on any farm, except farms with a new farm wheat allotment, were entitled to payments if marketing quotas were in effect for the 1962 wheat crop, if they diverted certain acreage from wheat production, and if such diverted acreage were devoted to conservation uses; that the payments were to be made by the Commodity Credit Corporation in cash or wheat and computed as therein provided; that additional acreage could be diverted and payments made with respect thereto; that any diverted acreage was to be in addition to acreage diverted for conservation uses for which payment is made under any other federal program except that cost-sharing payments under the agricultural conservation program or the Great Plains program were not precluded; that advance payments up to 50 per cent could be made; that wheat stored to avoid a marketing quota penalty was not to be released for underplanting based on such diverted acreage; that the Secretary could promulgate regulations; and that the Commodity Credit Corporation could use its capital funds and assets to make payments.

ACREAGE ALLOTMENT FOR 1954 CROP

Section 4(a) of act July 14, 1953, provided that the National acreage allotment for the 1954 crop of wheat shall not be less than sixty-two million acres.

ACREAGE ALLOTMENT FOR 1950 CROP

Section 5 of act Aug. 29, 1949, ch. 518, 63 Stat. 677, provided that the farm acreage allotment of wheat for the 1950 crop for any farm was not to be less than the larger of—

(A) 50 per centum of—

(1) the acreage on the farm seeded for the production of wheat in 1949, and

(2) any other acreage seeded for the production of wheat in 1948 which was fallowed and from which no crop was harvested in the calendar year 1949, or

(B) 50 per centum of—

(1) the acreage on the farm seeded for the production of wheat in 1948, and

(2) any other acreage seeded for the production of wheat in 1947 which was fallowed and from which no crop was harvested in the calendar year 1948,

adjusted in the same ratio as the national average seedings for the production of wheat during the ten calendar years 1939-1948 (adjusted as provided by this chapter) bore to the national acreage allotment for wheat for the 1950 crop: *Provided*, That no acreage was to be included under (A) or (B) which the Secretary, by appropriate regulations, determined would become an undue erosion hazard under continued farming. To the extent that the allotment to any county was insufficient to provide for such minimum farm allotments, the Secretary was to allot such county such additional acreage (which was to be in addition to the county, State, and national acreage allotments otherwise provided for under the Agricultural Adjustment Act of 1938, as amended [this chapter]) as was necessary in order to provide for such minimum farm allotments.

EMERGENCY FARM ACREAGE ALLOTMENT

Act, Feb. 28, 1945, ch. 15, 59 Stat. 9, provided for farm acreage allotment during national emergency proclaimed by the President on Sept. 8, 1939 and May 27, 1941. Such emergencies terminated on July 25, 1947 by the provisions of Joint Res. July 25, 1947, ch. 327, § 3, 61 Stat. 451.

CROSS REFERENCES

Delegation of regulatory functions of Secretary of Agriculture, see section 450c et seq. of this title.

Sugar quotas, see section 1111 et seq. of this title.

§ 1334a. Omitted

CODIFICATION

Section, act Aug. 28, 1954, ch. 1041, title III, § 314, 68 Stat. 905, related to the 1955 wheat acreage allotment in areas where a summer fallow crop rotation of wheat was a common practice.

§ 1334a-1. Summer fallow farms; upper limit on required set aside acreage for 1971 through 1977 wheat, feed grain, and cotton crops

Notwithstanding any other provision of law, for the 1971 through 1977 crops of wheat, feed grains and cotton, if in any year at least 55 per centum of the cropland acreage on an established summer fallow farm is devoted to a summer fallow use, no further acreage shall be required to be set aside under the wheat, feed grain and cotton programs for such year.

(Pub. L. 91-524, title IV, § 410, Nov. 30, 1970, 84 Stat. 1367; Pub. L. 93-86, § 1(17), Aug. 10, 1973, 87 Stat. 230.)

CODIFICATION

Section was enacted as part of the Agricultural Act of 1970, and not as part of the Agricultural Adjustment Act of 1938 which comprises this chapter.

AMENDMENTS

1973—Pub. L. 93-86 substituted "1971 through 1977" for "1971, 1972, and 1973".

§ 1334b. Designation of States outside commercial wheat-producing areas

If the acreage allotment for any State for any crop of wheat is twenty-five thousand acres or less, the Secretary, in order to promote efficient administration of this chapter and the Agricultural Act of 1949 [7 U.S.C. 1421 et seq.], may designate such State as outside the commercial wheat-producing area for the marketing year for such crop. If such State is so designated, acreage allotments for such crop and marketing quotas for the marketing year therefor shall not be applicable to any farm in such State. Acreage allotments in any State shall not be increased by reason of such designation.

(Feb. 16, 1938, ch. 30, title III, § 334a, as added Sept. 27, 1962, Pub. L. 87-703, title III, § 314, 76 Stat. 620.)

REFERENCES IN TEXT

The Agricultural Act of 1949, referred to in text, is Act Oct. 31, 1949, ch. 792, 63 Stat. 1051, which is classified generally to chapter 35A (§ 1421 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1421 of this title and Tables volume.

EFFECTIVE DATE

Section effective only with respect to programs applicable to the crops planted for harvest in the calendar year 1964, or any subsequent year and the marketing years beginning in the calendar year 1964, or any subsequent year, see section 323 of Pub. L. 87-703, set out as a note under section 1301 of this title.

§ 1335. Small-farm exemption; small-farm base acreage; election; acreage allotment; land-use provisions; price support; wheat marketing certificates

Notwithstanding any other provision of this subpart, no farm marketing quota for any crop of wheat shall be applicable to any farm with a

farm acreage allotment of less than fifteen acres if the acreage of such crop of wheat does not exceed the small-farm base acreage determined for the farm, unless the operator elects in writing on a form and within the time prescribed by the Secretary to be subject to the farm acreage allotment and marketing quota. The small-farm base acreage for a farm shall be the smaller of (A) the average acreage of the crop of wheat planted for harvest in the three years 1959, 1960, and 1961, or such later three-year period, excluding 1963, determined by the Secretary to be representative, with adjustments for abnormal weather conditions, established crop-rotation practices on the farm, and such other factors as the Secretary determines should be considered for the purpose of establishing a fair and equitable small-farm base acreage, or (B) fifteen acres. The acreage allotment for any farm shall be the larger of (1) the small-farm base acreage determined as provided above on the basis of the three-year period 1959-1961, reduced by the same percentage by which the national acreage allotment for the crop is reduced below fifty-five million acres, or (2) the acreage allotment determined without regard to (1) above. If the operator of any such farm fails to make such election with respect to any crop of wheat, (i) for the purposes of section 1340 of this title, the farm acreage allotment for such crop of wheat shall be deemed to be the larger of (A) the small-farm base acreage or (B) the acreage allotment for the farm, (ii) the land-use provisions of section 1339 of this title shall be inapplicable to the farm, (iii) such crop of wheat shall not be eligible for price support, and (iv) wheat marketing certificates applicable to such crop shall not be issued with respect to the farm. The additional acreage required to provide acreage allotments for farms based upon small-farm base acreages under this section shall be in addition to National, State, and county acreage allotments. This section shall not be applicable to the crops planted for harvest in 1967 and subsequent years.

(Feb. 16, 1938, ch. 30, title III, § 335, 52 Stat. 54; July 26, 1939, ch. 379, 53 Stat. 1126; June 6, 1940, ch. 237, 54 Stat. 232; July 3, 1948, ch. 827, title II, §§ 204(a), 62 Stat. 1256; Aug. 28, 1954, ch. 1041, title III, § 309, 68 Stat. 903; Aug. 28, 1957, Pub. L. 85-203, § 1, 71 Stat. 477; Aug. 8, 1961, Pub. L. 87-128, title I, § 122(e), 75 Stat. 297; Sept. 27, 1962, Pub. L. 87-703, title III, § 315, 76 Stat. 621; Nov. 3, 1965, Pub. L. 89-321, title V, § 501(8), 79 Stat. 1201.)

AMENDMENTS

1965—Pub. L. 89-321 made this section inapplicable to the crops planted for harvest in 1967 and subsequent years.

1962—Pub. L. 87-703 substituted provisions for small-farm exemption from marketing quotas for provisions of subsecs. (a), (b), (c), (e), and (f), respecting the establishment of marketing quotas, the amount of national and farm marketing quotas, designation of States outside commercial wheat-producing areas (now covered by section 1334b of this title), and feed wheat exemption permitting any producer to harvest up to 30 acres of wheat without penalty if the entire crop is used on the farm where produced.

1961—Subsec. (d). Pub. L. 87-128 repealed subsec. (d) which provided that no farm marketing quota with respect to wheat shall be applicable in any marketing year to any farm on which the normal production of the acreage planted to wheat of the current crop is less than 200 bushels.

1957—Subsec. (f). Pub. L. 85-203 added subsec. (f).

1954—Subsec. (a). Act Aug. 28, 1954, § 309(a), substituted "May 15" for "July 1".

Subsec. (e). Act Aug. 28, 1954, § 309(b), added subsec. (e).

1948—Subsec. (a). Act July 3, 1948, changed the conditions which must be determined by the Secretary to exist before marketing quotas can be imposed.

1940—Subsec. (d). Act June 6, 1940, substituted "two hundred" for "one hundred".

EFFECTIVE DATE OF 1965 AMENDMENT

Amendment of section by Pub. L. 89-321 effective beginning with the crop planted for harvest in the calendar year 1966, see section 501 of Pub. L. 89-321, set out as a note under section 1332 of this title.

EFFECTIVE DATE OF 1962 AMENDMENT

Amendment of section by section 315 of Pub. L. 87-703 effective only with respect to programs applicable to the crops planted for harvest in the calendar year 1964, or any subsequent year and the marketing years beginning in the calendar year 1964, or any subsequent year, see section 323 of Pub. L. 87-703, set out as a note under section 1301 of this title.

EFFECTIVE DATE OF 1961 AMENDMENT

Section 122(e) of Pub. L. 87-128 provided in part that the repeal of subsec. (d) of this section shall be effective with the 1962 crop of wheat.

EFFECTIVE DATE OF 1948 AMENDMENT

Amendment of section by act July 3, 1948, effective Jan. 1, 1950, see section 303 of act July 3, 1948, set out as a note under section 1301 of this title.

INAPPLICABILITY TO 1971 THROUGH 1977 CROPS OF WHEAT

Pub. L. 91-524, title IV, § 404(1), Nov. 30, 1970, 84 Stat. 1366, as amended by Pub. L. 93-86, § 1(11), Aug. 10, 1973, 87 Stat. 229, provided that this section is not applicable to the 1971 through 1977 crops of wheat.

CROSS REFERENCES

Agreements for adjustment of acreage or production of basic agricultural commodities, see section 608 et seq. of this title.

Delegation of regulatory functions of Secretary of Agriculture, see section 450c et seq. of this title.

Price support levels, see section 1441 of this title.

Supplemental provisions relating to corn and wheat marketing quotas, see section 1340 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1330, 1334, 1336, 1339, 1379c, 1441 of this title; title 16 section 590p.

§ 1336. Referendum

If a national marketing quota for wheat for one, two, or three marketing years is proclaimed, the Secretary shall, not later than August 1 of the calendar year in which such national marketing quota is proclaimed, conduct a referendum, by secret ballot, of farmers to determine whether they favor or oppose marketing quotas for the marketing year or years for which proclaimed. Any producer who has a farm acreage allotment shall be eligible to vote in any referendum held pursuant to this section, except that a producer who has a farm acreage allotment of less than fifteen acres shall not be eligible to vote unless the farm operator elected pursuant to section 1335 of this title to be subject to the farm marketing quota.

The Secretary shall proclaim the results of any referendum held hereunder within thirty days after the date of such referendum, and if the Secretary determines that more than one-third of the farmers voting in the referendum voted against marketing quotas, the Secretary shall proclaim that marketing quotas will not be in effect with respect to the crop of wheat produced for harvest in the calendar year following the calendar year in which the referendum is held. If the Secretary determines that two-thirds or more of the farmers voting in a referendum approve marketing quotas for a period of two or three marketing years, no referendum shall be held for the subsequent year or years of such period.

(Feb. 16, 1938, ch. 30, title III, § 336, 52 Stat. 55; July 3, 1948, ch. 827, title II, § 204(b), 62 Stat. 1256; July 25, 1961, Pub. L. 87-104, 75 Stat. 220; Aug. 8, 1961, Pub. L. 87-128, title I, § 122(f), 75 Stat. 297; July 19, 1962, Pub. L. 87-540, 76 Stat. 170; Sept. 27, 1962, Pub. L. 87-703, title III, § 316, 76 Stat. 621; Apr. 11, 1964, Pub. L. 88-297, title II, § 202(6), 78 Stat. 179; July 24, 1965, Pub. L. 89-82, 79 Stat. 258; July 23, 1970, Pub. L. 91-348, 84 Stat. 448; Oct. 15, 1970, Pub. L. 91-455, 84 Stat. 969; July 10, 1973, Pub. L. 93-68, 87 Stat. 161.)

CODIFICATION

Provisions specifying time for referenda for national marketing quotas for wheat for the marketing years beginning July 1, 1966, July 1, 1971, and July 1, 1974, as added by Pub. L. 89-82, Pub. Laws 91-348 and 91-455, and Pub. L. 93-68, respectively, were omitted as executed.

AMENDMENTS

1973—Pub. L. 93-68 extended the time within which the Secretary of Agriculture is required to conduct a referendum with respect to the 1974 crop of wheat, if marketing quotas are to be in effect for that crop, to the earlier of thirty days after adjournment of the first session of the Ninety-third Congress or Oct. 15, 1973.

1970—Pub. L. 91-455 added provision extending until 30 days after adjournment sine die of the second session of the 91st Congress the time within which the Secretary of Agriculture is required to conduct a referendum with respect to the 1971 crop of wheat, if marketing quotas are to be in effect for that crop.

Pub. L. 91-348 extended the time within which the Secretary of Agriculture is required to conduct a referendum with respect to the 1971 crop of wheat, if marketing quotas are to be in effect for that crop, to the earlier of thirty days after adjournment sine die of the second session of the ninety-first Congress or October 15, 1970.

1965—Pub. L. 89-82 extended until 30 days after adjournment sine die of the first session of the 89th Congress the time within which the Secretary of Agriculture is required to conduct a referendum with respect to the 1966 crop of wheat, if marketing quotas are to be in effect for that crop.

1964—Pub. L. 88-297 substituted "not later than August 1 of the calendar year in which such national marketing quota is proclaimed" for "not later than sixty days after such proclamation is published in the Federal Register".

1962—Pub. L. 87-703 substituted provisions for a referendum to be held not later than sixty days after publication in the Federal Register of national marketing quota proclamation to determine if the farmers favor or oppose the quota for the year or years for which proclaimed, making producers on farms having farm acreage allotments eligible to vote except farmers with small farm base acreage for which the operator did not elect to be subject to the program, directing results of referendum to be proclaimed within 30 days after date of referendum for provisions for referendum between date of proclamation of national marketing quota and July 25, making farmers, who produced more than 15 acres of wheat eligible to vote, excluding farmers who obtained the feed wheat exemption for the immediately preceding crop, permitting such referendum for marketing year beginning July 1, 1962, to be held not later than Aug. 26, 1961, and excluding farmers from voting in the 1961 referendum who had not produced in excess of 13.5 acres of wheat in at least one of the years 1959, 1960, or 1961 and permitting such referendum for marketing year beginning July 1, 1963, to be held not later than Aug. 31, 1962.

Pub. L. 87-540 added provisions for conducting wheat marketing quota referendum for marketing year beginning July 1, 1963, not later than August 31, 1962.

1961—Pub. L. 87-128 prohibited farmers who have not produced in excess of 13.5 acres of wheat in at least one of the years 1959, 1960, or 1961 from voting in the referendum conducted with respect to the national marketing quota for the marketing year beginning July 1, 1962.

Pub. L. 87-104 added provisions for conducting wheat marketing quota referendum for marketing year beginning July 1, 1962, not later than August 26, 1961.

1948—Act July 3, 1948, substituted "July 25" for "June 10".

EFFECTIVE DATE OF 1962 AMENDMENT

Amendment made by section 316 of Pub. L. 87-703 effective only with respect to programs applicable to the crops planted for harvest in the calendar year 1964, or any subsequent year and the marketing years beginning in the calendar year 1964, or any subsequent year, see section 323 of Pub. L. 87-703, set out as a note under section 1301 of this title.

EFFECTIVE DATE OF 1948 AMENDMENT

Amendment of section by act July 3, 1948, effective Jan. 1, 1950, see section 303 of act July 3, 1948, set out as a note under section 1301 of this title.

INAPPLICABILITY TO 1971 THROUGH 1977 CROPS OF WHEAT

Pub. L. 91-524, title IV, § 404(1), Nov. 30, 1970, 84 Stat. 1366, as amended by Pub. L. 93-86, § 1(11), Aug. 10, 1973, 87 Stat. 229, provided that this section is not applicable to the 1971 through 1977 crops of wheat.

DATE OF REFERENDUM FOR 1954 CROP

Act July 14, 1953, ch. 194, § 4(b), 67 Stat. 152, provided that the referendum with respect to the 1954 crop of wheat could be held as late as August 15, 1953.

CROSS REFERENCES

Referendum on orders regulating handling of commodities, see section 608c of this title.

§ 1337. Repealed. Pub. L. 87-703, title III, § 317, Sept. 27, 1962, 76 Stat. 622

Section, act Feb. 16, 1938, ch. 30, title III, § 337, 52 Stat. 55, related to adjustment and suspension of quotas.

EFFECTIVE DATE OF REPEAL

Repeal of section by Pub. L. 87-703 effective only with respect to programs applicable to the crops planted for harvest in the calendar year 1964, or any subsequent year and the marketing years beginning in the calendar year 1964, or any subsequent year, see section 323 of Pub. L. 87-703, set out as a note under section 1301 of this title.

§ 1338. Transfer of quotas

Farm marketing quotas for wheat shall not be transferable, but, in accordance with regulations prescribed by the Secretary for such purpose, any farm marketing quota in excess of the supply of wheat for such farm for any marketing year may be allocated to other farms on which the acreage allotment has not been exceeded.

(Feb. 16, 1938, ch. 30, title III, § 338, 52 Stat. 55.)

INAPPLICABILITY TO 1971 THROUGH 1977 CROPS OF WHEAT

Pub. L. 91-524, title IV, § 404(1), Nov. 30, 1970, 84 Stat. 1366, as amended by Pub. L. 93-86, § 1(11), Aug. 10, 1973, 87 Stat. 229, provided that this section is not applicable to the 1971 through 1977 crops of wheat.

CROSS REFERENCES

Delegation of regulatory functions of Secretary of Agriculture, see section 450c et seq. of this title.

§ 1339. Land use

(a) Diverted acreage; producers eligible for certificates; conservation uses; amount; annual identity; grazing

(1) As a condition of eligibility for wheat marketing certificates with respect to any farm, the producers on such farm shall be required to divert from the production of wheat to an approved conservation use an acreage of cropland on the farm equal to the number of acreas determined by multiplying the farm acreage allotment by the diversion factor, and to participate in any program formulated under subsection (b) of this section to the extent prescribed by the Secretary. Such diversion factor shall be determined by dividing the number of acres by which the national acreage allotment is reduced below fifty-five million acres by the number of acres in the national acreage allotment.

(2) The Secretary may require that the acreage on any farm diverted from the production of wheat be land which was diverted from the production of wheat in the previous year, to the extent he determines that such requirement is necessary to effectuate the purposes of this part.

(3) The Secretary may permit the diverted acreage to be grazed in accordance with regulations prescribed by the Secretary.

(b) Payment program for 1964 through 1970 crops; terms and conditions; amount; additional diverted acreage; conservation and soil-conserving uses; adjustment; knowledge of exceeding acreage allotment; acreage allotment not exceeded by delivery to Secretary of farm marketing excess or storage in accordance with regulations to avoid or postpone payment of penalty or by farms exempt from marketing quota; new farms ineligible for payments; sharing and medium of payments

The Secretary is authorized to formulate and carry out a program with respect to the crops of wheat planted for harvest in the calendar years 1964 through 1970 under which, subject to such terms and conditions as he determines are desirable to effectuate the purposes of this section, payments may be made in amounts not in excess of 50 per centum of the estimated basic county support rate for wheat not accompanied by marketing certificates on the normal production of the acreage diverted taking into account the income objectives of the chapter, determined by the Secretary to be fair and reasonable with respect to acreage diverted pursuant to subsection (a) of this section. Any producer who complies with his 1964 farm acreage allotment for wheat and with the other requirements of the program shall be eligible to receive payments under the program for the 1964 crop of wheat. The Secretary may permit producers on any farm to divert from the production of wheat an acreage, in addition to the acreage diverted pursuant to subsection (a) of this section, equal to 50 per centum of the farm acreage allotment for wheat: *Provided,* That the producers on any farm may, at their election, divert such acreage in addition to the acreage diverted pursuant to subsection (a) of this section, as will bring the total acreage diverted on the farm to twenty-five acres. Such program shall require (1) that the diverted acreage shall be devoted to conservation uses approved by the Secretary; (2) that the total acreage of cropland on the farm devoted to soil-conserving uses, including summer fallow and idle land but excluding the acreage diverted as provided above, shall be not less than the total average acreage of cropland devoted to soil-conserving uses including summer fallow and idle land on the farm during a representative period, as determined by the Secretary, adjusted to the extent the Secretary determines appropriate for (i) abnormal weather conditions or other factors affecting production, (ii) established crop-rotation practices on the farm, (iii) participation in other Federal farm programs, (iv) unusually high percentage of land on the farm devoted to conserving uses, and (v) other factors which the Secretary determines should be considered for the purpose of establishing a fair and equitable soil-conserving acreage for the farm; and (3) that the producer shall not knowingly exceed (i) any farm acreage allotment in effect for any commodity produced on the farm, and (ii) except as the Secretary may by regulations prescribe, with the farm acreage allotments on any other farm for any crop in which the producer has a share: *Provided,* That no producer shall be deemed to have exceeded a farm acreage allotment for wheat if the entire amount of the farm marketing excess is delivered to the Secretary or stored in accordance with applicable regulations to avoid or postpone payment of the penalty: *And provided further,* That no producer shall be deemed to have exceeded a farm acreage allotment for any crop of wheat if the farm is exempt from the farm marketing quota for such crop under section 1335 of this title. The producers on a new farm shall not be eligible for payments hereunder. The Secretary shall provide for the sharing of payment among producers on the farm on a fair and equitable basis. Payments may be made in cash or in wheat.

(c) Adjustment of payments

The Secretary may provide for adjusting any payment on account of failure to comply with the terms and conditions of the land-use pro-

gram formulated under subsection (b) of this section.

(d) Advance payments

Not to exceed 50 per centum of any payment to producers under subsection (b) of this section may be made in advance of determination of performance.

(e) Diverted acreage used for production of certain crops; rate of payment; limitation on rate

The Secretary may permit all or any part of the diverted acreage to be devoted to the production of guar, sesame, safflower, sunflower, castor beans, mustard seed, crambe, plantago ovato, and flaxseed, if he determines that such production of the commodity is needed to provide an adequate supply, is not likely to increase the cost of the price-support program and will not adversely affect farm income, subject to the condition that payment with respect to diverted acreage devoted to any such crop shall be at a rate determined by the Secretary to be fair and reasonable taking into consideration the use of such acreage for the production of such crops: *Provided,* That in no event shall the payment exceed one-half the rate which otherwise would be applicable if such acreage were devoted to conservation uses.

(f) Additional terms and conditions

The program formulated pursuant to subsection (b) of this section may include such terms and conditions, including provision for the control of erosion, in addition to those specifically provided for herein, as the Secretary determines are desirable to effectuate the purposes of this section.

(g) Regulations

The Secretary is authorized to promulgate such regulations as may be desirable to carry out the provisions of this section.

(h) Commodity Credit Corporation funds and authorization of appropriations for payments and administrative expenses

The Commodity Credit Corporation is authorized to utilize its capital funds and other assets for the purpose of making the payments authorized in this section and to pay administrative expenses necessary in carrying out this section during the period ending June 30, 1965. There is authorized to be appropriated such amounts as may be necessary thereafter to pay such administrative expenses.

(Feb. 16, 1938, ch. 30, title III, § 339, as added Sept. 27, 1962, Pub. L. 87-703, title III, § 318, 76 Stat. 622, and amended Apr. 11, 1964, Pub. L. 88-297, title II, § 202 (7)-(9), 78 Stat. 179; Nov. 3, 1965, Pub. L. 89-321, title V, § 501(9), (10), 79 Stat. 1201; Oct. 11, 1968, Pub. L. 90-559, § 1(1), 82 Stat. 996.)

PRIOR PROVISIONS

A prior section 1339, act Feb. 16, 1938, ch. 30, title III, § 339, 52 Stat. 55, related to penalties for marketing wheat in excess of quotas, was repealed by act July 14, 1953, ch. 194, § 2, 67 Stat. 151, and is now covered by section 1340(2) of this title.

Section 5 of act July 14, 1953, provided that the repeal of former section 1339 of this title wheat".

AMENDMENTS

1968—Subsec. (b). Pub. L. 90-559 provided for a one year extension through 1970.

1965—Subsec. (b). Pub. L. 89-321, § 501(9), substituted "crops of wheat planted for harvest in the calendar years 1964 through 1969" for "1964 and 1965 crops of wheat", "50 per centum of the farm acreage allotment" for "20 per centum of the farm acreage allotment", and "twenty-five acres" for "fifteen acres".

Subsec. (e). Pub. L. 89-321, § 501(10), authorized the Secretary to permit all or part of the diverted acreage to be devoted to mustardseed, crambe, and plantago ovato in addition to the previously authorized guar, sesame, safflower, sunflower, castor beans, and flax, if he determines that such production of the commodity is needed, is not likely to increase the cost of the price-support program, and will not adversely affect farm income, and removed from the proviso the prohibition against making available price supports for the production of such crops on diverted acreage.

1964—Subsec. (a)(1). Pub. L. 88-297, § 202(7), suspended land-use penalties and made the diversion of land from the production of wheat only a condition of eligibility for receiving wheat marketing certificates.

Subsec. (b). Pub. L. 88-297, § 202(8), inserted in the first sentence "for wheat not accompanied by marketing certificates" following "basic county support rate" and inserted after the first sentence "Any producer who complies with his 1964 farm acreage allotment for wheat and with the other requirements of the program shall be eligible to receive payments under the program for the 1964 crop of wheat."

Subsec. (h). Pub. L. 88-297, § 202(9), substituted "June 30, 1965" for "June 30, 1963".

EFFECTIVE DATE OF 1965 AMENDMENT

Amendment by Pub. L. 89-321 effective beginning with the crop planted for harvest in the calendar year 1966, see section 501 of Pub. L. 89-321, set out as a note under section 1332 of this title.

EFFECTIVE DATE OF 1964 AMENDMENT

Section 202(7) of Pub. L. 88-297, as amended by Pub. L. 89-321, title V, § 505(1), Nov. 3, 1965, 79 Stat. 1203; Pub. L. 90-559, § 1(1), Oct. 11, 1968, 82 Stat. 996, provided in part that the amendment of subsec. (a) (1) of this section by section 202(7) shall be effective only with respect to the crops planted for harvest in the calendar years 1964 through 1970.

EFFECTIVE DATE

Section effective only with respect to programs applicable to the crops planted for harvest in the calendar year 1964, or any subsequent year and the marketing years beginning in the calendar year 1954, or any subsequent year, see section 323 of Pub. L. 87-703, set out as a note under section 1301 of this title.

INAPPLICABILITY TO 1971 THROUGH 1977 CROPS OF WHEAT

Pub. L. 91-524, title IV, § 404(1), Nov. 30, 1970, 84 Stat. 1366, as amended by Pub. L. 93-86, § 1(11), Aug. 10, 1973, 87 Stat. 229, provided that this section is not applicable to the 1971 through 1977 crops of wheat.

CROPS PLANTED FOR HARVEST IN CALENDAR YEAR 1967

Section 507 of Pub. L. 89-321 provided that: "Effective beginning with the crop planted for harvest in the calendar year 1967, section 339(a)(1) of the Agricultural Adjustment Act of 1938, as amended [subsec. (a)(1) of this section], is amended by inserting after the words 'national acreage allotment', wherever they appear, the following: '(less an acreage equal to the increased acreage allotted for 1966 pursuant to section 335 [section 1335 of this title])'."

DIVERSION PROGRAMS; GOOD FAITH PERFORMANCE; PAYMENTS

Performance in good faith as meeting requirements of this section and authorizing payments, see section 1339a of this title.

WHEAT DIVERSION PROGRAMS; CREDITS IN ESTABLISHMENT OF STATE, COUNTY AND FARM ACREAGE ALLOTMENTS FOR WHEAT

Credits to State, county and farm of acreage diverted from production of wheat as though actually devoted to such production, see section 1339b of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1334, 1335, 1385 of this title.

§ 1339a. Diversion programs; good faith performance; payments

Notwithstanding any other provision of law, performance rendered in good faith in reliance upon action or advice of an authorized representative of the Secretary may be accepted as meeting the requirements of any program under which price support is extended or payments are made to farmers, and price support may be extended or payments may be made therefor in accordance with such action or advice to the extent the Secretary deems it desirable in order to provide fair and equitable treatment.

(Pub. L. 87-703, title III, § 326, Sept. 27, 1962, 76 Stat. 631; Pub. L. 88-26, § 4, May 20, 1963, 77 Stat. 47; Pub. L. 89-321, title III, § 303, Nov. 3, 1965, 79 Stat. 1192.)

CODIFICATION

Section was enacted as a part of the Food and Agriculture Act of 1962, and not as a part of the Agricultural Adjustment Act of 1938 which comprises this chapter.

AMENDMENTS

1965—Pub. L. 89-321 substituted "the requirements of any program under which price support is extended or payments are made to farmers, and price support may be extended or" for "the requirements of subsections (c), (d), (g), and (h) of section 590p of Title 16, or of section 307 of the Food and Agriculture Act of 1962, section 1339 of this title, or of section 124 of the Agriculture Act of 1961".

1963—Pub. L. 88-26 inserted reference to subsection (h) of section 590p of Title 16.

SHORT TITLE OF 1963 AMENDMENT

Section 1 of Pub. L. 88-26 provided: "That this Act [amending this section and section 590p of Title 16 and provisions set out as note under section 1441 of this title] may be cited as the 'Feed Grain Act of 1963'."

§ 1339b. Wheat diversion programs; credits in establishment of State, county and farm acreage allotments for wheat

In the establishment of State, county, and farm acreage allotments for wheat under this chapter, the acreage which is determined under regulations of the Secretary to have been diverted from the production of wheat under the special programs formulated pursuant to section 307 of this Act, section 1339 of this title, and section 124 of the Agricultural Act of 1961, shall be credited to the State, county, and farm as though such acreage had actually been devoted to the production of wheat.

(Pub. L. 87-703, title III, § 327, Sept. 27, 1962, 76 Stat. 631.)

REFERENCES IN TEXT

Section 307 of this Act (the Food and Agriculture Act of 1962) and section 124 of the Agricultural Act of 1961, referred to in the text, are set out as notes under section 1334 of this title.

CODIFICATION

Section was enacted as a part of the Food and Agriculture Act of 1962, and not as a part of the Agricultural Adjustment Act of 1938 which comprises this chapter.

§ 1339c. Feed grains diversion programs for 1964 and subsequent years; feed grain acreage considered wheat acreage and wheat acreage considered feed grain acreage

Effective with the 1964 crop, during any year in which an acreage diversion program is in effect for feed grains, the Secretary shall, notwithstanding any other provision of law, permit producers of feed grains to have acreage devoted to the production of feed grains considered as devoted to the production of wheat and producers of wheat to have acreage devoted to the production of wheat considered as devoted to the production of feed grains to such extent and subject to such terms and conditions as the Secretary determines will not impair the effective operation of the program for feed grains or wheat. In establishing terms and conditions for permitting wheat to be planted in lieu of oats and rye, the Secretary may take into account the number of feed units per acre of wheat in relation to the number of feed units per acre of oats and rye.

(Pub. L. 87-703, title III, § 328, Sept. 27, 1962, 76 Stat. 631; Pub. L. 89-321, title V, § 514, Nov. 3, 1965, 79 Stat. 1206.)

AMENDMENTS

1965—Pub. L. 89-321 authorized the Secretary, in establishing terms and conditions for permitting wheat to be planted in lieu of oats and rye, to take into account the number of feed units per acre of wheat in relation to the number of feed units per acre of oats and rye.

CODIFICATION

Section was enacted as a part of the Food and Agriculture Act of 1962, and not as a part of the Agricultural Adjustment Act of 1938 which comprises this chapter.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1332, 1444b of this title; title 16 section 590p.

§ 1339d. Hay production on set-aside or diverted acreage; storage; emergency use; loans

(a) Notwithstanding any other provision of law, the Secretary shall permit any producer who is participating in the wheat program under title IV of this Act, in the feed grain program under title V of this Act, or in the cotton program under title VI of this Act, in any year in which an acreage diversion or set-aside program is in effect, under any such program in which such producer is participating, subject to the conditions prescribed in subsection (b) of this section, to plant and harvest hay from 25

per centum of the acreage on the farm diverted from production under such programs or twenty-five acres, whichever is greater.

(b) Any producer who elects to plant and harvest hay on diverted or set aside acreage pursuant to this section shall first agree not to use any such hay harvested from such acreage unless authorized to do so by the Secretary.

(c) When any diverted or set aside acreage has been planted and harvested under authority of this section, the hay harvested therefrom shall be baled and stored in sealed storage on the farm in accordance with such regulations as the Secretary may prescribe and shall be available only for use during periods of emergency declared by the Secretary. In order to avoid deterioration of such hay stored on the farm for emergency purposes pursuant to this section, the Secretary may permit such hay to be removed and used or sold from time to time so long as an amount of hay equal to the amount removed is previously placed in storage and sealed.

(d) Any farmer who has hay stored on his farm for emergency purposes pursuant to this section may remove such hay from storage and use it whenever the Secretary has (1) designated as an emergency area the area in which such farm is located, and (2) specifically authorized the use of emergency hay by farmers in the area.

(e) The Secretary of Agriculture is authorized to make or guarantee loans to farmers, both tenants and landowners, to assist such farmers in the construction of storage facilities on the farm for the storage of emergency hay pursuant to the provisions of this section if such farmers are unable to obtain loans from commercial sources at reasonable rates and on reasonable terms and conditions. Loans made by the Secretary under this subsection shall be made at the current rate of interest for periods not exceeding ten years, and on such other terms and conditions as the Secretary may prescribe.

(Pub. L. 91-524, title VIII, § 805, Nov. 30, 1970, 84 Stat. 1382.)

REFERENCES IN TEXT

The wheat program under title IV of this Act, the feed grain program under title V of this Act, and the cotton program under title VI of this Act, referred to in subsec. (a), have reference to the programs for such crops as set out in the Agricultural Act of 1970, Pub. L. 91-524, Nov. 30, 1970, 84 Stat. 1358, for the 1971, 1972, and 1973 crops. Such titles IV, V, and VI of that Act enacted sections 1334a-1, 1342a, 1350a, and 2119 of this title, amended sections 1301, 1305, 1306, 1344b, 1350, 1374, 1378, 1379, 1379b, 1379c, 1379d, 1379e, 1379g, 1385, 1427, 1428, 1444, 1444a, 1444b, and 1445a of this title, and enacted provisions set out as notes under sections 1301, 1305, 1306, 1330, 1331, 1332, 1333, 1334, 1335, 1336, 1338, 1339, 1342, 1342a, 1343, 1344, 1344b, 1345, 1346, 1350, 1377, 1378, 1379, 1379b to 1379j, 1385, 1427, 1428, 1441, 1444, 1445a, and 1446d of this title.

CODIFICATION

Section was enacted as part of the Agricultural Act of 1970, and not part of the Agricultural Adjustment Act of 1938 which comprises this chapter.

§ 1340. Supplemental provisions relating to wheat marketing quotas; marketing penalty for rice; crop loans on cotton, wheat, rice, tobacco, and peanuts

Notwithstanding the other provisions of this chapter—

(1) The farm marketing quota for any crop of wheat shall be the actual production of the acreage planted to such crop of wheat on the farm less the farm marketing excess. The farm marketing excess shall be an amount equal to twice the projected farm yield multiplied by the number of acres of such crop of wheat on the farm in excess of the farm acreage allotment for such crop unless the producer, in accordance with regulations issued by the Secretary and within the time prescribed therein, establishes to the satisfaction of the Secretary the actual production of such crop of wheat on the farm. If such actual production is so established, the farm marketing excess shall be an amount equal to the actual production of the number of acres of wheat on the farm in excess of the farm acreage allotment for such crop. In determining the farm marketing quota and farm marketing excess, any acreage of wheat remaining after the date prescribed by the Secretary for the disposal of excess acres of wheat shall be included as acreage of wheat on the farm, and the production thereof shall be appraised in such manner as the Secretary determines will provide a reasonably accurate estimate of such production. Any acreage of wheat disposed of in accordance with regulations issued by the Secretary prior to such date as may be prescribed by the Secretary shall be excluded in determining the farm marketing quota and farm marketing excess. Self-seeded (volunteer) wheat shall be included in determining the acreage of wheat. Marketing quotas for any marketing year shall be in effect with respect to wheat harvested in the calendar year in which such marketing year begins notwithstanding that the wheat is marketed prior to the beginning of such marketing year.

(2) Whenever farm marketing quotas are in effect with respect to any crop of wheat, the producers on a farm shall be subject to a penalty on the farm marketing excess of wheat at a rate per bushel equal to 65 per centum of the parity price per bushel of wheat as of May 1 of the calendar year in which the crop is harvested. Each producer having an interest in the crop of wheat on any farm for which a farm marketing excess of wheat is determined shall be jointly and severally liable for the entire amount of the penalty on the farm marketing excess.

(3) The farm marketing excess for wheat shall be regarded as available for marketing, and the penalty and the storage amount or amounts to be delivered to the Secretary of the commodity shall be computed upon twice the normal production of the excess acreage. Where, upon the application of the producer for an adjustment of penalty or of storage, it is shown to the satisfaction of the Secretary that the actual production of the excess acreage is less than twice the normal production thereof, the difference between the amount

of the penalty or storage as computed upon the basis of twice the normal production and as computed upon the basis of actual production shall be returned to or allowed the producer. The Secretary shall issue regulations under which the farm marketing excess of the commodity for the farm may be stored or delivered to him. Upon failure to store or deliver to the Secretary the farm marketing excess within such time as may be determined under regulations prescribed by the Secretary, the penalty computed as aforesaid shall be paid by the producer. Any wheat delivered to the Secretary hereunder shall become the property of the United States and shall be disposed of by the Secretary for relief purposes in the United States or in foreign countries or in such other manner as he shall determine will divert it from the normal channels of trade and commerce.

(4) Until the producers on any farm store, deliver to the Secretary, or pay the penalty on, the farm marketing excess of any crop of wheat, the entire crop of wheat produced on the farm and any subsequent crop of wheat subject to marketing quotas in which the producer has an interest shall be subject to a lien in favor of the United States for the amount of the penalty.

(5) The penalty upon wheat stored shall be paid by the producer at the time, and to the extent, of any depletion in the amount of the commodity so stored, except depletion resulting from some cause beyond the control of the producer.

(6) Whenever the planted acreage of the then current crop of wheat on any farm is less than the farm acreage allotment for such commodity, the total amount of the commodity from any previous crops required to be stored in order to postpone or avoid payment of penalty shall be reduced by that amount which is equal to the normal production of the number of acres by which the farm acreage allotment exceeds the planted acreage. The provisions of section 1326(b) and (c) of this title shall be applicable also to wheat.

(7) Until the farm marketing excess of wheat is stored or delivered to the Secretary or the penalty thereon is paid, each bushel of the commodity produced on the farm which is sold by the producer to any person within the United States shall be subject to the penalty as specified in paragraph (2) of this section. Such penalty shall be paid by the buyer, who may deduct an amount equivalent to the penalty from the price paid to the producer. If the buyer fails to collect such penalty, such buyer and all persons entitled to share in the wheat marketed from the farm or the proceeds thereof shall be jointly and severally liable for such penalty.

(8) The marketing penalty for rice produced in the calendar year in which any marketing year begins (if beginning with or after the 1941-1942 marketing year) shall be at a rate equal to 50 per centum of the basic rate of the loan for cooperators for such marketing year under section 1302 of this title and this section.

(9) Omitted.

(10) The provisions of this section are amendatory of and supplementary to this chapter, and all provisions of law applicable in respect of marketing quotas and loans under such chapter as so amended and supplemented shall be applicable, but nothing in this section shall be construed to amend or repeal sections 1301(b)(6), 1323(b), or 1335(d) of this title.

(11) The persons liable for the payment or collection of the penalty or any amount of wheat shall be liable also for interest thereon at the rate of 6 per centum per annum from the date the penalty becomes due until the date of payment of such penalty.

(12) If marketing quotas for wheat are not in effect for any marketing year, all previous marketing quotas applicable to wheat shall be terminated, effective as of the first day of such marketing year. Such termination shall not abate any penalty previously incurred by a producer or relieve any buyer of the duty to remit penalties previously collected by him.

(May 26, 1941, ch. 133, 55 Stat. 203; Dec. 26, 1941, ch. 626, § 2, 55 Stat. 860; Dec. 26, 1941, ch. 636, 55 Stat. 872; Aug. 29, 1949, ch. 518, § 3(b), 63 Stat. 676; July 14, 1953, ch. 194, § 3, 67 Stat. 151; Aug. 28, 1954, ch. 1041, title III, § 313, 68 Stat. 905; Aug. 8, 1961, Pub. L. 87-128, title I, § 122(d), 75 Stat. 297; Sept. 27, 1962, Pub. L. 87-703, title III, §§ 309, 319, 76 Stat. 618, 624; Oct. 11, 1962, Pub. L. 87-801, 76 Stat. 909; Nov. 3, 1965, Pub. L. 89-321, title V, § 511(b), 79 Stat. 1205.)

REFERENCES IN TEXT

Section 1302 of this title, referred to in par. (8), was repealed by act Oct. 31, 1949, ch. 792, title IV, § 414, 63 Stat. 1057.

Section 1323(b) of this title, referred to in par. (10), was repealed by act Aug. 28, 1954, ch. 1041, title III, § 304, 68 Stat. 902, and had provided that no farm marketing quota with respect to any crop of corn shall be applicable to any farm on which the normal production of the acreage planted to corn is less than 300 bushels.

Section 1335(d) of this title, referred to in par. (10), was repealed by Pub. L. 87-129, title I, § 122(e), Aug. 8, 1961, 75 Stat. 297, and had provided that no farm marketing quota with respect to wheat shall be applicable in any marketing year to any farm on which the normal production of the acreage planted to wheat of the current crop is less than 200 bushels.

CODIFICATION

Section was not enacted as part of the Agricultural Adjustment Act of 1938 which comprises this chapter. Similar provisions are also set out as section 1330 of this title.

Par. (9), which directed the Commodity Credit Corporation to make loans upon the 1941 to 1946 cotton, wheat, rice, tobacco, and peanut crops for which producers did not disapprove marketing quotas at the rate of 85% of parity to cooperators and, to noncooperators, at the rate of 60% of the rate specified for cooperators and limited to that amount of the commodity as would be subject to penalty if marketed by the noncooperators, was omitted as executed.

AMENDMENTS

1965—Par. (1). Pub. L. 89-321 substituted "projected farm yield" for "normal yield of wheat per acre established for the farm".

1962—Par. (1). Pub. L. 87-703, § 319(1), substituted requirement that computation of the farm marketing excess initially be double the farm normal yield of wheat times the excess acres, such excess acres being reduced to the actual yield times the excess acres,

upon proof by the producer of the actual yield, for provision that the farm marketing excess could not be more than the actual production of wheat on the farm less the normal production of the farm acreage allotment and provided that the acreage of wheat not disposed of by the prescribed date would be considered wheat acreage, with the wheat production thereon appraised for the purposes of determining the farm marketing quota and farm marketing excess, that wheat acreage disposed of prior to the disposal date would not be considered acreage and that the acreage of volunteer wheat not disposed of would be considered wheat acreage.

Par. (2). Pub. L. 87-703, § 319(2), increased from 45 to 65 per centum the rate of penalty on farm marketing excess and provided for joint and several liability for such penalty.

Par. (3). Pub. L. 87-703, § 319(3), required computation of the farm marketing excess initially upon twice the normal yield and eliminated reference to corn. Act Aug. 28, 1954, had made the section in applicable to corn.

Par. (4). Pub. L. 87-703, § 319(4), inserted "and any subsequent crop of wheat subject to marketing quotas in which the producer has an interest" following "produced on the farm" and eliminated reference to corn. Act Aug. 28, 1954, had made the section inapplicable to corn.

Pars. (5), (6). Pub. L. 87-703, § 319(5), (6), eliminated reference to corn. Act Aug. 28, 1954, had made the section inapplicable to corn.

Par. (7). Pub. L. 87-703, § 319(7), (8), redesignated former par. (8) as (7), and added the provision for joint and several liability for the penalty and eliminated reference to corn, respectively. Act Aug. 28, 1954, had made the section inapplicable to corn. Provisions of former par. (7), which provided a 15-acre exemption but provided for a farm marketing quota on 1962 crop of wheat to any farm on which the acreage of wheat exceeded the smaller of (1) 13.5 acres, or (2) of the highest number of acres actually planted to, wheat on the farm for harvest in any of the calendar years 1959, 1960, or 1961 and provisions of former par. (7), added by Pub. L. 87-703, § 309, which provided for a farm marketing quota on 1963 crop of wheat to any farm on which the acreage of wheat exceeded the smaller of (1) 15 acres, or (2) the highest number of acres actually planted to wheat on the farm for harvest in any of the calendar years 1959, 1960, or 1961, or 1963 (provided by Pub. L. 87-801), were repealed by such section 319(7) and are covered by section 1335 of this title.

Pars. (8) to (10). Pub. L. 87-703, § 319(7), redesignated former pars. (9) to (11) as (8) to (10). Former par. (8) redesignated (7).

Par. (11). Pub. L. 87-703, § 319(9), added par. (11). Former par. (11) redesignated (10).

Par. (12). Pub. L. 87-703, § 319(9), added par. (12). Former par. (12), which limited the farm marketing excess for any crop of wheat and provided for return to the producer of difference between amount of penalty or storage as computed upon farm marketing excess before adjustment and as computed upon adjusted farm marketing excess, where a downward adjustment in amount of farm marketing excess was made, was repealed by such section 319(9).

1961—Par. (7). Pub. L. 87-128 authorized the Secretary to prescribe regulations relating to the exemption of farms from marketing quotas on any crop of wheat, specified the exemption for the 1962 crop and eliminated marketing penalty provisions relating to nonallotment farms under the Soil Conservation and Domestic Allotment Act.

1954—Act Aug. 28, 1954, amended section generally to make it inapplicable to corn.

1953—Act July 14, 1953, omitted the penalty for marketing corn in excess of quotas and changed the penalty for marketing wheat in excess of quotas from 50 per cent of the basic loan rate on the commodity for cooperators to 45 per cent of the parity price.

1949—Par. (9). Act Aug. 29, 1949, struck out "cotton and" following "penalty for".

1941—Par. (10). Act Dec. 26, 1941, ch. 626, substituted "1941, 1942, 1943, 1944, 1945 and 1946 crops of the commodities cotton, corn, wheat, rice, tobacco and peanuts" for "1941 crop of the commodities cotton, corn, wheat, rice, or tobacco" and "for the marketing year beginning in the calendar year in which such crop is harvested" for "marketing year beginning in 1941."

Par. (12). Act Dec. 26, 1941, ch. 636, added par. (12).

EFFECTIVE DATE OF 1962 AMENDMENT

Amendment made by section 319 of Pub. L. 87-703 effective only with respect to programs applicable to the crops planted for harvest in the calendar year 1964, or any subsequent year and the marketing years beginning in the calendar year 1964, or any subsequent year, see section 323 of Pub. L. 87-703, set out as a note under section 1301 of this title.

EFFECTIVE DATE OF 1953 AMENDMENT

Section 5 of act July 14, 1953, provided that the amendment to this section effected by said act "shall become effective with respect to the 1954 and subsequent crops of wheat".

TRANSFER OF FUNCTIONS

The administration of the program of the Commodity Credit Corporation was transferred to the Secretary of Agriculture by 1946 Reorg. Plan No. 3, § 501, eff. July 16, 1946, 11 F.R. 7877, 60 Stat. 1100, set out in the Appendix to Title 5, Government Organization and Employees.

EXCEPTIONS FROM TRANSFER OF FUNCTIONS

Functions of the Corporations of the Department of Agriculture, the boards of directors and officers of such corporations; the Advisory Board of the Commodity Credit Corporation; and the Farm Credit Administration or any agency, officer or entity of, under, or subject to the supervision of the said Administration were excepted from the functions of officers, agencies and employees transferred to the Secretary of Agriculture by 1953 Reorg. Plan No. 2, § 1, eff. June 4, 1953, 18 F.R. 3219, 67 Stat. 633, set out as a note under section 2201 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1334, 1335 of this title; title 16 section 590p.

SUBPART IV—MARKETING QUOTAS—COTTON

§ 1341. Legislative findings

American cotton is a basic source of clothing and industrial products used by every person in the United States and by substantial numbers of people in foreign countries. American cotton is sold on a world-wide market and moves from the places of production almost entirely in interstate and foreign commerce to processing establishments located throughout the world at places outside the State where the cotton is produced.

Fluctuations in supplies of cotton and the marketing of excessive supplies of cotton in interstate and foreign commerce disrupt the orderly marketing of cotton in such commerce with consequent injury to and destruction of such commerce. Excessive supplies of cotton directly and materially affect the volume of cotton moving in interstate and foreign commerce and cause disparity in prices of cotton and industrial products moving in interstate and foreign commerce with consequent diminution of the volume of such commerce in industrial products.

The conditions affecting the production and marketing of cotton are such that, without Federal assistance, farmers, individually or in cooperation, cannot effectively prevent the recurrence of excessive supplies of cotton and fluctuations in supplies, cannot prevent indiscriminate dumping of excessive supplies on the Nation-wide and foreign markets, cannot maintain normal carry-overs of cotton, and cannot provide for the orderly marketing of cotton in interstate and foreign commerce.

It is in the interest of the general welfare that interstate and foreign commerce in cotton be protected from the burdens caused by the marketing of excessive supplies of cotton in such commerce, that a supply of cotton be maintained which is adequate to meet domestic consumption and export requirements in years of drought, flood, and other adverse conditions as well as in years of plenty, and that the soil resources of the Nation be not wasted in the production of excessive supplies of cotton.

The provisions of this subpart affording a cooperative plan to cotton producers are necessary and appropriate to prevent the burdens on interstate and foreign commerce caused by the marketing in such commerce of excessive supplies, and to promote, foster, and maintain an orderly flow of an adequate supply of cotton in such commerce.

(Feb. 16, 1938, ch. 30, title III, § 341, 52 Stat. 55.)

1947 MARKETING QUOTAS AND ACREAGE ALLOTMENTS

Joint Res. July 24, 1946, ch. 616, 60 Stat. 662, suspended marketing quotas and acreage allotments for 1947 in view of the critical shortage of fats and oils and protein feeds.

§ 1342. National marketing quota; proclamation; amount; date of proclamation

Whenever during any calendar year the Secretary determines that the total supply of cotton for the marketing year beginning in such calendar year will exceed the normal supply for such marketing year, the Secretary shall proclaim such fact and a national marketing quota shall be in effect for the crop of cotton produced in the next calendar year. The Secretary shall also determine and specify in such proclamation the amount of the national marketing quota in terms of the number of bales of cotton (standard bales of five hundred pounds gross weight) adequate, together with (1) the estimated carry-over at the beginning of the marketing year which begins in the next calendar year and (2) the estimated imports during such marketing year, to make available a normal supply of cotton: *Provided,* That beginning with the 1961 crop, the national marketing quota shall be not less than a number of bales equal to the estimated domestic consumption and estimated exports (less estimated imports) for the marketing year for which the quota is proclaimed, except that the Secretary shall make such adjustment in the amount of such quota as he determines necessary after taking into consideration the estimated stocks of cotton in the United States (including the qualities of such stocks) and stocks in foreign countries which would be available for the marketing year for which the quota is being proclaimed if no adjustment of such quota is made hereunder, to assure the maintenance of adequate but not excessive stocks in the United States to provide a continuous and stable supply of the different qualities of cotton needed in the United States and in foreign cotton consuming countries, and for purposes of national security; but the Secretary, in making such adjustments, may not reduce the national marketing quota for any year below (i) one million bales less than the estimated domestic consumption and estimated exports for the marketing year for which such quota is being proclaimed, or (ii) ten million bales, whichever is larger. Such proclamation shall be made not later than October 15 of the calendar year in which such determination is made. Notwithstanding the foregoing provisions of this section, the national marketing quota for cotton for 1957 and 1958 shall be not less than the number of bales required to provide a national acreage allotment for 1957 and 1958 equal to the national acreage allotment for 1956: *Provided,* That if the acreage allotment for any State for 1957 or 1958 is less than its allotment for the preceding year by more than 1 per centum, such State allotment shall be increased so that the reduction shall not exceed 1 per centum per annum, and the acreage required for such increase shall be in addition to the national acreage allotment for such year. Additional acreage apportioned to a State for 1957 or 1958 under the foregoing proviso shall not be taken into account in establishing future State allotments. Notwithstanding any other provision of this chapter, the national marketing quota for upland cotton for 1959 and subsequent years shall be not less than the number of bales required to provide a national acreage allotment for each such year of sixteen million acres.

(Feb. 16, 1938, ch. 30, title III, § 342, 52 Stat. 56; Aug. 29, 1949, ch. 518, § 1, 63 Stat. 670; May 28, 1956, ch. 327, title III, § 302, 70 Stat. 203; Aug. 28, 1958, Pub. L. 85-835, title I, § 103(1), (2), 72 Stat. 989, 990.)

AMENDMENTS

1958—Pub. L. 85-835, § 103(1), substituted proviso prescribing, beginning with the 1961 crop, a minimum national marketing quota for cotton equal to estimated domestic consumption and exports less imports subject to adjustment assuring maintenance of adequate but not excessive stocks, the adjustment not to reduce the national marketing quota for any year below the larger of (1) estimated domestic consumption and exports less one million bales or (2) ten million bales, for provisions prescribing for a national marketing quota not less than the smaller of ten million bales or one million bales less than estimated domestic consumption plus exports and providing for 1950 a national marketing quota based on a twenty-one million national acreage allotment.

Pub. L. 85-835, § 103(2), provided for a national marketing quota for upland cotton for 1959 and subsequent years based on a sixteen million national acreage allotment.

1956—Act May 28, 1956, provided that the national marketing quota for cotton for 1957 and 1958 shall not be less than the number of bales required to provide a national acreage allotment for 1957 and 1958 equal to the national acreage allotment for 1956.

1949—Act Aug. 29, 1949, amended section generally to set up a national marketing quota and to provide for the amount and proclamation of such quota.

INAPPLICABILITY TO UPLAND COTTON OF THE 1971 THROUGH 1977 CROPS

Pub. L. 91-524, title VI, § 601(1), Nov. 30, 1970, 84 Stat. 1371, as amended by Pub. L. 93-86, § 1(19)(A), Aug. 10, 1973, 87 Stat. 233, provided in part this section shall not be applicable to upland cotton of the 1971 through 1977 crops.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1343, 1344, 1347, 1427 of this title.

§ 1342a. National cotton production goal

The Secretary shall, not later than November 15, of the calendar years 1970 through 1976 proclaim a national cotton production goal for the 1971 and subsequent crops of upland cotton. The national cotton production goal for any year shall be the number of bales of upland cotton (standard bales of four hundred and eighty pounds net weight) equal to the estimated domestic consumption and estimated exports for the marketing year beginning in the calendar year for which such national cotton production goal is proclaimed, plus an allowance of not less than 5 per centum of such estimated consumption and estimated exports for market expansion except that the Secretary shall make such adjustments in the amount of such production goal as he determines necessary after taking into consideration the estimated stocks of upland cotton in the United States (including the qualities of such stocks) and stocks in foreign countries, which would be available for the marketing year, to assure the maintenance of adequate but not excessive carryover stocks in the United States (not less than 50 per centum of the average offtake for the three preceding marketing years) to provide a continuous and stable supply of the different qualities of upland cotton needed in the United States and in foreign cotton consuming countries and, in addition, to provide an adequate reserve for purposes of national security.

(Feb. 16, 1938, ch. 30, title III, § 342a, as added Nov. 30, 1970, Pub. L. 91-524, title VI, § 601(2), 84 Stat. 1371, and amended Aug. 10, 1973, Pub. L. 93-86, § 1(19)(B), 87 Stat. 233.)

AMENDMENTS

1973—Pub. L. 93-86 substituted "1970 through 1976" for "1970, 1971, and 1972".

EFFECTIVE DATE

Section 601 of Pub. L. 91-524 provided in part that this section is effective beginning with the 1971 crop of upland cotton.

§ 1343. Referendum

Not later than December 15 following the issuance of the marketing quota proclamation provided for in section 1342 of this title, the Secretary shall conduct a referendum, by secret ballot, of farmers engaged in the production of cotton in the calendar year in which the referendum is held, to determine whether such farmers are in favor of or opposed to the quota so proclaimed. If more than one-third of the farmers voting in the referendum oppose the national marketing quota, such quota shall become ineffective upon proclamation of the results of the referendum. The Secretary shall proclaim the results of any referendum held hereunder within thirty days after the date of such referendum.

(Feb. 16, 1938, ch. 30, title III, § 343, 52 Stat. 56; Apr. 7, 1938, ch. 107, § 8, 52 Stat. 203; July 26, 1939, ch. 376, 53 Stat. 1125; July 3, 1948, ch. 827, title III, § 207(c), 62 Stat. 1257; Aug. 29, 1949, ch. 518, § 1, 63 Stat. 670; Oct. 31, 1949, ch. 792, title IV, § 415(e), 63 Stat. 1058.)

CODIFICATION

Provision that if marketing quotas were proclaimed for the 1950 crop, farmers eligible to vote in the referendum with respect to such crop were to be those farmers who had produced cotton in the 1948 calendar year was omitted as executed.

AMENDMENTS

1949—Act Aug. 29, 1949, amended section generally by providing for a secret referendum. Former provisions of this section are now covered by section 1342 of this title.

Subsec. (a). Act Oct. 31, 1949, repealed amendatory provisions of act July 3, 1948, ch. 827, title II, § 207(c), 62 Stat. 1257.

1948—Subsec. (a). Act July 3, 1948, required the Secretary to take imports into consideration in determining acreage allotments for the purposes of marketing quotas.

1939—Subsec. (b). Act July 26, 1939, added final sentence.

1938—Subsec. (c). Act Apr. 7, 1938, substituted "for any year" for "for 1938 and 1939".

EFFECTIVE DATE OF 1948 AMENDMENT

Amendment by act July 3, 1948, effective Jan. 1, 1950, see section 303 of act July 3, 1948, set out as a note under section 1301 of this title.

INAPPLICABILITY TO UPLAND COTTON OF THE 1971 THROUGH 1977 CROPS

Pub. L. 91-524, title VI, § 601(1), Nov. 30, 1970, 84 Stat. 1371, as amended by Pub. L. 93-86, § 1(19)(A), Aug. 10, 1973, 87 Stat. 233, provided in part this section shall not be applicable to upland cotton of the 1971 through 1977 crops.

§ 1344. Apportionment of national acreage allotments

(a) Basis

Whenever a national marketing quota is proclaimed under section 1342 of this title, the Secretary shall determine and proclaim a national acreage allotment for the crop of cotton to be produced in the next calendar year. The national acreage allotment for cotton shall be that acreage, based upon the national average yield per acre of cotton for the four years immediately preceding the calendar year in which the national marketing quota is proclaimed, required to make available from such crop an amount of cotton equal to the national marketing quota.

(b) Apportionment among States for year 1953 and subsequent years; adjustment; national acreage reserve

The national acreage allotment for cotton for 1953 and subsequent years shall be apportioned to the States on the basis of the acreage planted to cotton (including the acreage regarded as having been planted to cotton under the provisions of Public Law 12, Seventy-ninth Congress) during the five calendar years immediately preceding the calendar year in which the national marketing quota is proclaimed, with adjust-

ments for abnormal weather conditions during such period: *Provided,* That there is established a national acreage reserve consisting of three hundred and ten thousand acres which shall be in addition to the national acreage allotment; and such reserve shall be apportioned to the States on the basis of their needs for additional acreage for establishing minimum farm allotments under subsection (f)(1) of this section, as determined by the Secretary without regard to State and county acreage reserves (except that the amount apportioned to Nevada shall be one thousand acres). For the 1960 and succeeding crops of cotton, the needs of States (other than Nevada) for such additional acreage for such purpose may be estimated by the Secretary, after taking into consideration such needs as determined or estimated for the preceding crop of cotton and the size of the national acreage allotment for such crop. The additional acreage so apportioned to the State shall be apportioned to the counties on the basis of the needs of the counties for such additional acreage for such purpose, and added to the county acreage allotment for apportionment to farms pursuant to subsection (f) of this section (except that no part of such additional acreage shall be used to increase the county reserve above 15 per centum of the county allotment determined without regard to such additional acreage). Additional acreage apportioned to a State for any year under the foregoing proviso shall not be taken into account in establishing future State acreage allotments. Needs for additional acreage under the foregoing provisions and under the last proviso in subsection (e) of this section shall be determined or estimated as though allotments were first computed without regard to subsection (f)(1) of this section.

(c) Apportionment among States for years 1950 and 1951; computation and adjustment

The national acreage allotments for cotton for the years 1950 and 1951 shall be apportioned to the States on the basis of a national acreage allotment base of twenty-two million five hundred thousand acres, computed and adjusted as follows:

(1) The average of the planted acreages (including acreage regarded as planted under the provisions of Public Law 12, Seventy-ninth Congress) in the States for the years 1945, 1946, 1947, and 1948 shall constitute the national base; except that in the case of any State having a 1948 planted cotton acreage of over one million acres and less than 50 per centum of the 1943 allotment, the average of the acreage planted (or regarded as planted under Public Law 12, Seventy-ninth Congress) for the years 1944, 1945, 1946, 1947, and 1948 shall constitute the base for such State and shall be included in computing the national base; to this is to be added (A) the estimated additional acreage for each State required for small-farm allotments under subsection (f)(1) of this section; (B) the acreage required as a result of the State adjustment provisions of paragraph (2) of this subsection; (C) the additional acreage required to determine a total national allotment base of twenty-two million five hundred thousand acres, which additional acreage shall be distributed on a proportionate basis among States receiving no adjustment under paragraph (2) of this subsection.

(2) Notwithstanding the provisions of paragraph (1) of this subsection, the acreage allotment base for 1950 and 1951 for any State (on the basis of a national acreage allotment base of twenty-two million five hundred thousand acres) shall not be less than the larger of (1) 95 per centum of the average acreage actually planted to cotton in the State during the years 1947 and 1948, or (2) 85 per centum of the acreage planted to cotton in the State in 1948.

(3) If the national acreage allotment for 1950 or 1951 is more or less than twenty-two million five hundred thousand acres, horizontal adjustments shall be made percentagewise by States so as to reflect the ratio of the national acreage allotment for 1950 and 1951 to twenty-two million five hundred thousand acres.

(d) Apportionment for year 1952; adjustment

The national acreage allotment for cotton for 1952 shall be apportioned to States on the basis of the acreage planted to cotton (including the acreage regarded as having been planted to cotton under the provisions of Public Law 12, Seventy-ninth Congress) during the years 1946, 1947, 1948, and 1950, with adjustments for abnormal weather conditions during such period.

(e) Apportionment among counties; reservation of acreage; additional acreage for establishing minimum farm allotments

The State acreage allotment for cotton shall be apportioned to counties on the same basis as to years and conditions as is applicable to the State under subsections (b), (c), and (d) of this section: *Provided,* That the State committee may reserve not to exceed 10 per centum of its State acreage allotment (15 per centum if the State's 1948 planted acreage was in excess of one million acres and less than half its 1943 allotment) which shall be used to make adjustments in county allotments for trends in acreage, for counties adversely affected by abnormal conditions affecting plantings, or for small or new farms, or to correct inequities in farm allotments and to prevent hardship: *Provided further,* That if the additional acreage allocated to a State under the proviso in subsection (b) of this section is less than the requirements as determined or estimated by the Secretary for establishing minimum farm allotments for the State under subsection (f)(1) of this section, the acreage reserved under this subsection shall not be less than the smaller of (1) the remaining acreage so determined or estimated to be required for establishing minimum farm allotments or (2) 3 per centum of the State acreage allotment; and the acreage which is required to be reserved under this proviso shall be allocated to counties on the basis of their needs for additional acreage for establishing minimum farm allotments under subsection (f)(1) of this section, and added to the county acreage allotment for apportionment to farms pursuant to subsection (f) of this section (except that no part of such additional acreage shall be used to increase the county reserve above 15 per centum of the county allotment determined without regard to such additional acreages).

(f) Apportionment among farms

The county acreage allotment, less not to exceed the percentage provided for in paragraph 3 of this subsection, shall be apportioned to farms on which cotton has been planted (or regarded as having been planted under the provisions of Public Law 12, Seventy-ninth Congress) in any one of the three years immediately preceding the year for which such allotment is determined on the following basis:

(1) Insofar as such acreage is available, there shall be allotted the smaller of the following: (A) ten acres; or (B) the acreage allotment established for the farm for the 1958 crop.

(2) The remainder shall be allotted to farms other than farms to which an allotment has been made under paragraph (1)(B) of this subsection so that the allotment to each farm under this paragraph together with the amount of the allotment to such farm under paragraph (1)(A) of this subsection shall be a prescribed percentage (which percentage shall be the same for all such farms in the county or administrative area) of the acreage, during the preceding year, on the farm which is tilled annually or in regular rotation, excluding from such acreages the acres devoted to the production of sugarcane for sugar; sugar beets for sugar; wheat, tobacco, or rice for market; peanuts picked and threshed; wheat or rice for feeding to livestock for market; or lands determined to be devoted primarily to orchards or vineyards, and nonirrigated lands in irrigated areas: *Provided, however,* That if a farm would be allotted under this paragraph an acreage together with the amount of the allotment to such farm under paragraph (1)(A) of this subsection in excess of the largest acreage planted (and regarded as planted under Public Law 12, Seventy-ninth Congress) to cotton during any of the preceding three years, the acreage allotment for such farm shall not exceed such largest acreage so planted (and regarded as planted under Public Law 12, Seventy-ninth Congress) in any such year.

(3) The county committee may reserve not in excess of 15 per centum of the county allotment (15 per centum if the State's 1948 planted cotton acreage was in excess of one million acres and less than half its 1943 allotment) which, in addition to the acreage made available under the proviso in subsection (e) of this section, shall be used for (A) establishing allotments for farms on which cotton was not planted (or regarded as planted under Public Law 12, Seventy-ninth Congress) during any of the three calendar years immediately preceding the year for which the allotment is made, on the basis of land, labor, and equipment available for the production of cotton, crop-rotation practices, and the soil and other physical facilities affecting the production of cotton; and (B) making adjustments of the farm acreage allotments established under paragraphs (1) and (2) of this subsection so as to establish allotments which are fair and reasonable in relation to the factors set forth in this paragraph and abnormal conditions of production on such farms, or in making adjustments in farm acreage allotments to correct inequities and to prevent hardship: *Provided,* That not less than 20 per centum of the acreage reserved under this subsection shall, to the extent required, be allotted, upon such basis as the Secretary deems fair and reasonable to farms (other than farms to which an allotment has been made under paragraph (1)(B) of this subsection), if any, to which an allotment of not exceeding fifteen acres may be made under other provisions of this subsection.

(4) Any part of the acreage allotted for 1950 to individual farms in any county under the provisions of this section which will not be planted to cotton and which is voluntarily surrendered to the county committee shall be deducted from the allotments to such farms and may be reapportioned by the county committee to other farms in the same county receiving allotments to the extent necessary to provide such farms with the allotments authorized under paragraph (5) of this subsection. If any acreage remains after providing such allotments, it may be apportioned in amounts determined by the county committee to be fair and reasonable to other farms in the same county receiving allotments which the county committee determines are inadequate and not representative in view of their past production of cotton and to new farms in such county. No allotment shall be made, or increased, by reason of this paragraph to an acreage in excess of 40 per centum of the acreage on the farm which is tilled annually or in regular rotation, as determined under regulations prescribed by the Secretary. Any transfer of allotment under this paragraph shall not operate to reduce the allotment for any subsequent year for the farm from which acreage is transferred, except in accordance with paragraph (1)(B) and the proviso in paragraph (2) of this subsection: *Provided,* That any part of any farm acreage allotment may be permanently released in writing to the county committee by the owner and operator of the farm and may be reapportioned in the manner set forth above. In any subsequent year, unless hereafter otherwise provided by law, acreage surrendered under this paragraph and reallocated pursuant to applications filed in accordance with the provisions of paragraph (5) of this section shall be credited to the State and county in determining acreage allotments.

(5) Notwithstanding any other provision of law and without reducing any farm acreage allotment determined pursuant to the foregoing provisions of this subsection, each farm acreage allotment for 1950 shall be increased by such amount as may be necessary to provide an allotment equal to the larger of 65 per centum of the average acreage planted to cotton (or regarded as planted to cotton under the provisions of Public Law 12, Seventy-ninth Congress) on the farm in 1946, 1947, and 1948, or 45 per centum of the highest acreage planted to cotton (or regarded as planted to cotton under Public Law 12, Seventy-ninth Congress) on the farm in any one of such three years; but no such allotment shall be increased by reason of this provision to an acreage in excess of 40 per centum of the

acreage on the farm which is tilled annually or in regular rotation, as determined under regulations prescribed by the Secretary. An increase in any 1950 farm acreage allotment shall be made pursuant to this paragraph only upon application in writing by the owner or operator of the farm within such reasonable period of time (in no event less than fifteen days) as may be prescribed by the Secretary. The additional acreage required to be allotted to farms under this paragraph shall be in addition to the county, State, and national acreage allotments and the production from such acreage shall be in addition to the national marketing quota. The additional acreage authorized by this paragraph shall not be taken into account in establishing future State, county, and farm acreage allotments.

(6) Notwithstanding the provisions of paragraph (2) of the subsection, if the county committee recommends such action and the Secretary determines that such action will result in a more equitable distribution of the county allotment among farms in the county, the remainder of the county acreage allotment (after making allotments as provided in paragraph (1) of this subsection) shall be allotted to farms other than farms to which an allotment has been made under paragraph (1)(B) of this subsection so that the allotment to each farm under this paragraph together with the amount of the allotment of such farm under paragraph (1)(A) of this subsection shall be a prescribed percentage (which percentage shall be the same for all such farms in the county) of the average acreage planted to cotton on the farm during the three years immediately preceding the year for which such allotment is determined, adjusted as may be necessary for abnormal conditions affecting plantings during such three-year period: *Provided,* That the county committee may in its discretion limit any farm acreage allotment established under the provisions of this paragraph for any year to an acreage not in excess of 50 per centum of the cropland on the farm, as determined pursuant to the provisions of paragraph (2) of this subsection: *Provided further,* That any part of the county acreage allotment not apportioned under this paragraph by reason of the initial application of such 50 per centum limitation shall be added to the county acreage reserve under paragraph (3) of this subsection and shall be available for the purposes specified therein. If the county acreage allotment is apportioned among the farms of the county in accordance with the provisions of this paragraph, the acreage reserved under paragraph (3) of this subsection may be used to make adjustments so as to establish allotments which are fair and reasonable to farms receiving allotments under this paragraph in relation to the factors set forth in paragraph (3) of this subsection.

(7)(A) In the event that any farm acreage allotment is less than that prescribed by paragraph (1) of this subsection, such acreage allotment shall be increased to the acreage prescribed by said paragraph (1). The additional acreage required to be allotted to farms under this paragraph shall be in addition to the county, State, and national acreage allotments and the production from such acreage shall be in addition to the national marketing quota.

(B) Notwithstanding any other provision of law—

(i) the acreage by which any farm acreage allotment for 1959 or any subsequent crop established under paragraph (1) of this subsection exceeds the acreage which would have been allotted to such farm if its allotment had been computed on the basis of the same percentage factor applied to other farms in the county under paragraph (2), (6), or (8) of this subsection shall not be taken into account in establishing the acreage allotment for such farm for any crop for which acreage is allotted to such farm under paragraph (2), (6), or (8) of this subsection; and acreage shall be allotted under paragraph (2), (6), or (8) of this subsection to farms which did not receive 1958 crop allotments in excess of ten acres if and only if the Secretary determines (after considering the allotments to other farms in the county for such crop compared with their 1958 allotments and other relevant factors) that equity and justice require the allotment of additional acreage to such farm under paragraph (2), (6), or (8) of this subsection,

(ii) the acreage by which any county acreage allotment for 1959 or any subsequent crop is increased from the national or State reserve on the basis of its needs for additional acreage for establishing minimum farm allotments shall not be taken into account in establishing future county acreage allotments, and

(iii) the additional acreage allotted pursuant to subparagraph (A) of this paragraph (7) shall not be taken into account in establishing future State, county, or farm acreage allotments.

(8) Notwithstanding the foregoing provisions of paragraphs (2) and (6) of this subsection, the Secretary shall, if allotments were in effect the preceding year, provide for the county acreage allotment for the 1959 and succeeding crops of cotton, less the acreage reserved under paragraph (3) of this subsection, to be apportioned to farms on which cotton has been planted in any one of the three years immediately preceding the year for which such allotment is determined, on the basis of the farm acreage allotment for the year immediately preceding the year for which such apportionment is made, adjusted as may be necessary (i) for any change in the acreage of cropland available for the production of cotton, or (ii) to meet the requirements of any provision (other than those contained in paragraphs (2) and (6)) with respect to the counting of acreage for history purposes: *Provided,* That, beginning with allotments established for the 1961 crop of cotton, if the acreage actually planted (or regarded as planted under the Soil Bank Act, the Great Plains program, and the release and reapportionment provisions of subsection (m)(2) of this section) to cotton on the farm in the preceding year was less than 75 per centum of the farm allotment for such year

or, in the case of a farm which qualified for price support on the crop produced in such year under section 1444(b) of this title, 75 per centum of the farm domestic allotment established under section 1350 of this title for such year, whichever is smaller, in lieu of using such allotment as the farm base as provided in this paragraph, the base shall be the average of (1) the cotton acreage for the farm for the preceding year as determined for purposes of this proviso and (2) the allotment established for the farm pursuant to the provisions of this subsection for such preceding year; and the 1958 allotment used for establishing the minimum farm allotment under paragraph (1) of this subsection shall be adjusted to the average acreage so determined. The base for a farm shall not be adjusted as provided in this paragraph if the county committee determines that failure to plant at least 75 per centum of the farm allotment was due to conditions beyond the control of producers on the farm. The Secretary shall establish limitations to prevent allocations of allotment to farms not affected by the foregoing proviso, which would be excessive on the basis of the cropland, past cotton acreage, allotments for other commodities, and good soil conservation practices on such farms.

(g) Law and conditions governing establishment of acreage allotments and yields

Notwithstanding the foregoing provisions of this section—

(1) State, county, and farm acreage allotments and yields for cotton shall be established in conformity with section 1344a of this title.

(2) In apportioning the county allotment among the farms within the county, the Secretary, through the local committees, shall take into consideration different conditions within separate administrative areas within a county if any exist, including types, kinds, and productivity of the soil so as to prevent discrimination among the administrative areas of the county.

(h) Repealed. Feb. 16, 1938, ch. 30, title III, § 378(d), as added Aug. 28, 1958, Pub. L. 85-835, title V, § 501, 72 Stat. 996

(i) Excess planting; old and new farm allotment

Notwithstanding any other provision of this chapter, any acreage planted to cotton in excess of the farm acreage allotment shall not be taken into account in establishing State, county, and farm acreage allotments. Notwithstanding any other provision of this chapter, beginning with the 1960 crop the planting of cotton on a farm in any of the immediately preceding three years that allotments were in effect but no allotment was established for such farm for any year of such three-year period shall not make the farm eligible for an allotment as an old farm under subsection (f) of this section: *Provided, however,* That by reason of such planting the farm need not be considered as ineligible for a new farm allotment under subsection (f)(3) of this section.

(j) Availability of records for inspection

Notwithstanding any other provision of this chapter, State and county committees shall make available for inspection by owners or operators of farms receiving cotton acreage allotments all records pertaining to cotton acreage allotments and marketing quotas.

(k) Minimum allotments to States

Notwithstanding any other provision of this section except subsection (g)(1) of this section, there shall be allotted to each State for which an allotment is made under this section not less than the smaller of (A) four thousand acres or (B) the highest acreage planted to cotton in any one of the three calendar years immediately preceding the year for which the allotment is made.

(*l*) Administration of law governing war crops

Notwithstanding any other provision of law, the Secretary, in administering the provisions of Public Law 12, Seventy-ninth Congress, as it relates to war crops, shall carry out the provisions of such Act in the following manner:

(i) A survey shall be conducted of every farm which had a 1942 cotton acreage allotment, and of such other farms as the Secretary considers necessary in the administration of Public Law 12. This survey shall obtain for each farm the most accurate information possible on (a) the total acreage in cultivation, and (b) the acreage of individual crops planted on each farm in the years 1941, 1945, 1946, and 1947.

(ii) An eligible farm for war-crop credit shall be a farm on which (a) the cotton acreage on the farm in 1945, 1946, or 1947, was reduced below the cotton acreage planted on the farm in 1941; (b) the war-crop acreage on the farm in 1945, 1946, or 1947, was increased above the war-crop acreage on the farm in 1941; and (c) the farm had a cotton acreage allotment in 1942.

(iii) A farm shall be regarded as having planted cotton (in addition to the actual acreage planted to cotton) to the extent of the lesser of (a) the reduction in cotton acreage for each of the years 1945, 1946, and 1947, below the acreage planted to cotton in 1941, or (b) the increase in war crops for each of the years 1945, 1946, and 1947, above that planted to such war crops in 1941. However, the county committee may be given the discretion to adjust such war-crop credit when the county committee determines that the reduction in cotton acreage was not related to an increase in war crops, but the adjustment shall be made only after consultation with the producer.

(iv) The Secretary, using the best information obtainable, and working with and through the State and county committees, shall use whatever means necessary to make an accurate determination of the credits due each individual farm, under Public Law 12.

(v) The total of the war-crop credits due the individual farms in each county shall be credited to the county and the total of the war-crop credits due all of the counties in a State shall be credited to the State.

(vi) The acreage credited to States, counties, and farms for the years 1945, 1946, or 1947, because of war crops, shall be taken into full account in the determination and distribution of cotton acreage allotments on a national, State, county, and farm basis.

(m) Acreage allotments, 1954; increases; apportionments; limitations; unallotted farm acreage; reapportionment of surrendered acreage; extra long staple cotton; reserve acreage

Notwithstanding any other provision of law—

(1) The national acreage allotment established under subsection (a) of this section for the 1954 crop of cotton shall be increased to twenty-one million acres and apportioned to the States in the same manner in which the national acreage allotment heretofore established for 1954 was apportioned to the States. In addition to such increased national acreage allotment, and in order to provide equitable adjustments in 1954 farm acreage allotments, (A) three hundred and fifteen thousand additional acres shall be prorated as follows: one-half to the States of Arizona, California, and New Mexico, and one-half to the other States (excluding those which receive a minimum allotment under subsection (k) of this section), the proration of each half being made to the States participating therein on the basis of their respective shares of the increased national acreage allotment, and (B) such additional acreage shall be added as may be required to provide each State a total allotment under subsection (b) of this section and the provisions of this paragraph of not less than 66 per centum of the acreage planted to cotton in the State in 1952. The additional acreage made available to States under clause (B) of the preceding sentence shall not be taken into account in establishing future State acreage allotments. The additional acreage made available to States under the provisions of this paragraph shall be apportioned to counties on the basis of their respective shares of the State acreage allotment heretofore apportioned pursuant to subsection (e) of this section, and the additional acreage shall be apportioned to farms pursuant to the provisions of subsection (f) of this section: *Provided,* That, if the county committee determines that such action will result in a more equitable distribution of the additional county allotment among farms in the county, the additional acreage shall be apportioned by the county committee to farms so as to provide each farm with an allotment equal to the larger of 65 per centum of the average acreage planted to cotton on the farm in 1951, 1952, and 1953 (as determined by the county committee in establishing allotments under subsection (f) of this section) or 40 per centum of the highest acreage planted to cotton on the farm in any one of such three years as so determined: *Provided,* That the State committee in each State shall limit such increase based on the system of farming, soil, crop-rotation practices, and other physical factors affecting production in such State, to an acreage not in excess of 50 per centum of the cropland on the farm, as determined under regulations heretofore prescribed by the Secretary. If the additional acreage is insufficient to meet the total of the farm increases so computed, such farm increases shall be reduced pro rata to the additional acreage available to the county; if the additional acreage available to the county is in excess of the total of the farm increases so computed the acreage remaining after making such increases shall be allotted to farms pursuant to the provisions of subsection (f)(3) of this section. Notwithstanding the foregoing provisions of this paragraph, if the State committee determines that such action will result in a more equitable distribution of the additional acreage made available to the State under this paragraph it shall apportion such additional allotment directly to farms so as to provide each farm with an allotment equal to the larger of 65 per centum of the average acreage planted to cotton on the farm in 1951, 1952, and 1953 (as determined by the county committee in establishing allotments under subsection (f) of this section) or 40 per centum of the highest acreage planted to cotton on the farm in any one of such three years as so determined: *Provided,* That the State committee in each State shall limit such increase based on the system of farming, soil, crop-rotation practices, and other physical factors affecting production in such State, to an acreage not in excess of 50 per centum of the cropland on the farm, as determined under regulations heretofore prescribed by the Secretary: *Provided,* That if the State total of the farm increases so computed exceeds the additional acreage made available to the State under this paragraph, such farm increases shall be reduced pro rata to the additional acreage available to the State. Any acreage unallotted to farms because of the limitations contained in the preceding sentence shall be apportioned by the State committee to counties on the basis of past acreages planted to cotton and shall be used by county committees for adjustments in farm allotments on the basis of one or more of the following: The past acreage of cotton on the farm, the percentage of cropland heretofore determined under subsection (f)(2) of this section, and the factors enumerated in subsection (f)(3) of this section. Before apportioning such unallotted acreage to counties as provided in the foregoing sentence, the State committee may, if it determines that such action is required to provide equitable allotments within the State, apportion such unallotted acreage directly to farms to the extent required to provide each farm with the minimum allotment described in subsection (f)(1) of this section. Any part of the county allotment heretofore established for the 1954 crop which was not apportioned to farms because of the limitation contained in the proviso in subsection (f)(2) of this section shall be available to the State committee and used as provided above for apportionment of unallotted acreage to farms. The provisions of this subsection, except paragraph (2) of this subsection, shall not apply to extra long staple cotton covered by section 1347 of this title.

(2) Any part of any farm cotton acreage allotment on which cotton will not be planted and which is voluntarily surrendered to the county committee shall be deducted from the allotment to such farm and may be reapportioned by the county committee to other farms in the same county receiving allotments in amounts determined by the county

committee to be fair and reasonable on the basis of past acreage of cotton land, labor, equipment available for the production of cotton, crop rotation practices, and soil and other physical facilities affecting the production of cotton. If all of the allotted acreage voluntarily surrendered is not needed in the county, the county committee may surrender the excess acreage to the State committee to be used for the same purposes as the State acreage reserve under subsection (e) of this section. Any allotment released under this provision shall be regarded for the purposes of establishing future allotments as having been planted on the farm and in the county where the release was made rather than on the farm and in the county to which the allotment was transferred, except that this shall not operate to make the farm from which the allotment was transferred eligible for an allotment as having cotton planted thereon during the three-year base period: *Provided,* That notwithstanding any other provisions of law, any part of any farm acreage allotment may be permanently released in writing to the county committee by the owner and operator of the farm, and reapportioned as provided herein. Acreage released under this paragraph shall be credited to the State in determining future allotments. The provisions of this paragraph shall apply also to extra long staple cotton covered by section 1347 of this title.

(3) Notwithstanding any other provision of this section or other provision of law, the acreage allotted to any State for 1954 under the provisions of subsection (b) of this section and the provisions of paragraph (1) of this subsection which is less than one hundred thousand acres but more than thirty thousand acres shall be increased by an acreage equal to 15 per centum of the acreage allotted to it prior to January 30, 1954. Such acreage shall be used by the State committee as a reserve to make equitable adjustments in 1954 farm acreage allotments on the basis of land, labor, equipment available for the production of cotton, crop-rotation practices, past acreages of cotton, soil, and other physical factors affecting the production of cotton.

(n) Transfer of farm cotton acreage allotments in case of natural disasters; eligibility for allotment

Notwithstanding any other provision of this chapter, if the Secretary determines for any year that because of a natural disaster a portion of the farm cotton acreage allotments in a county cannot be timely planted or replanted in such year, he may authorize for such year the transfer of all or a part of the cotton acreage allotment for any farm in the county so affected to another farm in the county or in an adjoining county on which one or more of the producers on the farm from which the transfer is to be made will be engaged in the production of cotton and will share in the proceeds thereof, in accordance with such regulations as the Secretary may prescribe. Any farm allotment transferred under this paragraph shall be deemed to be released acreage for purposes of acreage history credits under subsections (f)(8) and (m)(2) of this section, and section 1377 of this title: *Provided,* That, notwithstanding the provisions of subsection (m)(2) of this section, the transfer of any farm allotment under this subsection for any year shall operate to make the farm from which the allotment was transferred eligible for an allotment as having cotton planted thereon during the three-year base period.

(Feb. 16, 1938, ch. 30, title III, § 344, 52 Stat. 57; Apr. 7, 1938, ch. 107, § 9, 52 Stat. 203; May 31, 1938, ch. 292, § 1, 52 Stat. 586; Mar. 13, 1939, ch. 9, 53 Stat. 512; June 22, 1939, ch. 238, §§ 1–3, 53 Stat. 853; Feb. 6, 1942, ch. 44, § 3, 56 Stat. 52; Aug. 29, 1949, ch. 518, § 1, 63 Stat. 670; Oct. 31, 1949, ch. 792, title IV, § 419, 63 Stat. 1062; Mar. 31, 1950, ch. 81, § 1, 64 Stat. 40; Jan. 30, 1954, ch. 2, §§ 1–3, 68 Stat. 4; Aug. 28, 1954, ch. 1041, title III, § 310, 68 Stat. 904; May 28, 1956, ch. 327, title III, § 303(a)–(d), 70 Stat. 203; June 11, 1958, Pub. L. 85–456, 72 Stat. 186; Aug. 28, 1958, Pub. L. 85–835, title I, §§ 103(4), 104(a)–(d), 105–107, 72 Stat. 990; Feb. 16, 1938, ch. 30, title III, § 378(d), as added Aug. 28, 1958, Pub. L. 85–835 title V, § 501, 72 Stat. 996; Aug. 18, 1959, Pub. L. 86–172, § 2, 73 Stat. 393; May 20, 1961, Pub. L. 87–37, 75 Stat. 84; Apr. 27, 1962, Pub. L. 87–446, 76 Stat. 64; Apr. 26, 1963, Pub. L. 88–12, 77 Stat. 13; Apr. 11, 1964, Pub. L. 88–297, title I, § 106(3), (8), 78 Stat. 177.)

REFERENCES IN TEXT

Public Law 12, Seventy-ninth Congress, referred to in subsecs. (b), (c), (d), (f), (*l*), is act Feb. 28, 1945, ch. 15, 59 Stat. 9. For classification of this Act to the Code, see Tables volume.

Soil Bank Act, referred to in subsec. (f)(8), was classified to subchapters I to III of chapter 45 (§ 1801 et seq.) of this title and was repealed by Pub. L. 89–321, title VI, § 601, Nov. 3, 1965, 79 Stat. 1206.

AMENDMENTS

1964—Subsec. (f)(8). Pub. L. 88–297, § 106(3), inserted "or, in the case of a farm which qualified for price support on the crop produced in such year under section 1444(b) of this title, 75 per centum of the farm domestic allotment established under section 1350 of this title for such year, whichever is smaller" following "75 per centum of the farm allotment for such year" to protect the farm base of any farm participating in the domestic allotment choice program if the acreage planted on the farm was at least 75 per centum of the farm domestic allotment.

Subsec. (n). Pub. L. 88–297, § 106(8), extended the transfer provisions to natural disasters occurring in any year instead of only during 1963.

1963—Subsec. (n). Pub. L. 88–12 substituted "portion of the 1963" for "substantial portion of the 1962", and added the proviso "that notwithstanding subsection (m)(2) of this section, transfers under this subsection for 1963 makes the farm from which the allotment was transferred eligible for an allotment as having cotton during the three-year period".

1962—Subsec. (n). Pub. L. 87–466 substituted "1962" for "1961".

1961—Subsec. (n). Pub. L. 87–37 substituted "1961" for "1958", and "Any farm allotment transferred under this paragraph shall be deemed to be released acreage for purposes of acreage history credits under subsections (f)(8) and (m)(2) of this section, and section 1377 of this title" for "Acreage history credits for transferred acreage shall be governed by the provisions of subsection (m)(2) of this section pertaining to the release and reapportionment of acreage allotments. No transfer hereunder shall be made to a farm covered by a 1958 acreage reserve contract for cotton."

1959—Subsec. (f)(8). Pub. L. 86–172, § 2(1), added proviso for determination of base beginning with allotments established for the 1961 crop of cotton, and in-

serted provisions prohibiting the adjustment of the base for a farm where the county committee determines that failure to plant at least 75 per centum of the farm allotment was due to conditions beyond control of producers on the farm, and requiring the Secretary to establish limitations to prevent allocations of allotment to farms not affected by the proviso.

Subsec. (g)(3). Pub. L. 86–172, § 2(2), repealed par. (3) which provided that for any farm on which the acreage planted to cotton in any year was less than the farm acreage allotment for such year by not more than the larger of 10 per centum of the allotment or one acre, an acreage equal to the farm acreage allotment should be deemed to be the acreage planted to cotton on such farm, and the additional acreage added to the cotton acreage history for the farm should be added to the cotton acreage history for the county and State.

Subsec. (i). Pub. L. 86–172, § 2(3), added the provisions respecting eligibility for old and new farm allotment.

Subsec. (m)(2). Pub. L. 86–172, § 2(4), deleted "; but no such acreage shall be surrendered to the State committee so long as any farmer receiving a cotton acreage allotment in such county desires additional cotton acreage" following "subsection (e) of this section" and to substitute "Any allotment released under this provision shall be regarded for the purpose of establishing future allotments as having been planted on the farm and in the county where the release was made rather than on the farm and in the county to which the allotment was transferred" for "Any allotment transferred under this provision shall be regarded for the purposes of subsection (f) of this section as having been planted on the farm from which transferred rather than on the farm to which transferred" and "Acreage released under this paragraph shall be credited to the State in determining future allotments" for "Acreage surrendered, reapportioned under this paragraph, and planted shall be credited to the State and county in determining future acreage allotments".

1958—Subsec. (a). Pub. L. 85–835, § 103(4), substituted "four" for "five" in the second sentence.

Subsec. (b). Pub. L. 85–835, § 104(a), established a national acreage reserve of 310,000 acres in addition to the national acreage allotment, provided that apportionments of additional acreage shall not be taken into account in establishing future State allotments, and added provisions for determination of needs for additional acreage.

Subsec. (e). Pub. L. 85–835, § 104(b), added proviso clause relating to additional acreage allocated to a State.

Subsec. (f)(1). Pub. L. 85–835, § 104(c), substituted "(A) ten acres; or (B) the acreage allotment established for the farm for the 1958 crop" for "(A) four acres; or (B) the highest number of acres planted to cotton in any year of such three-year period".

Subsec. (f)(6). Pub. L. 85–835, § 104(d), substituted "provisions of paragraph (2) of this subsection" for "foregoing provisions of this subsection except paragraph (3) of this subsection", "remainder of the county acreage allotment (after making allotments as provided in paragraph (1) of this subsection) shall be allotted" for "county acreage allotment, less the acreage reserved under paragraph (3) of this subsection, shall be apportioned", and added provisions requiring the allotments to be a prescribed percentage of the average acreage planted to cotton on the farm during the three years immediately preceding the year for which such allotment is determined.

Subsec. (f)(7). Pub. L. 85–835, § 105, added subsec. (f)(7).

Subsec. (f)(8). Pub. L. 85–835, § 106, added subsec. (f)(8).

Subsec. (h). Act Feb. 16, 1938, § 378(d), as added by Pub. L. 85–835, § 501, repealed subsec. (h) which related to apportionment by county committee and reallocation of flood lands.

Subsec. (m)(2). Pub. L. 85–835, § 107, provided that any cotton acreage which is surrendered shall be retained in the county and not surrendered to the State committee so long as any farmer in the county desires additional cotton acreage.

Subsec. (n). Pub. L. 85–456 added subsec. (n).

1956—Subsec. (b). Act May 28, 1956, § 303(a), inserted *"Provided,* That there is hereby established a national acreage reserve consisting of one hundred thousand acres which shall be in addition to the national acreage allotment; and such reserve shall be apportioned to the States on the basis of their needs for additional acreage for establishing minimum farm allotments under subsection (f)(1) of this section, as determined by the Secretary without regard to State and county acreage reserves (except that the amount apportioned to Nevada shall be one thousand acres), and the additional acreage so apportioned to the State shall be apportioned to the counties on the same basis and added to the county acreage allotment for apportionment to farms pursuant to subsection (f) of this section (except that no part of such additional acreage shall be used to increase the county reserve above 15 per centum of the county allotment determined without regard to such additional acreage). Additional acreage apportioned to a State for any year under the foregoing proviso shall not be taken into account in establishing future State acreage allotments. Needs for additional acreage under the foregoing proviso and under the last proviso in subsection (e) of this section shall be determined as though allotments were first computed without regard to subsection (f)(1) of this section."

Subsec. (e). Act May 28, 1956, § 303(b), inserted *"Provided further,* That if the additional acreage allocated to a State under the proviso in subsection (b) of this section is less than the requirements as determined by the Secretary for establishing minimum farm allotments for the State under subsection (f)(1) of this section, the acreage reserved by the State committee under this subsection shall not be less than the smaller of (1) the remaining acreage so determined to be required for establishing minimum farm allotments or (2) 3 per centum of the State acreage allotment; and the acreage which the State committee is required to reserve under this proviso shall be allocated to counties on the basis of their needs for additional acreage for establishing minimum farm allotments under subsection (f)(1) of this section, and added to the county acreage allotment for apportionment to farms pursuant to subsection (f) of this section (except that no part of such additional acreage shall be used to increase the county reserve above 15 per centum of the county allotment determined without regard to such additional acreages)."

Subsec. (f)(1). Act May 28, 1956, § 303(c), inserted "Insofar as such acreage is available,", substituted "four acres" for "five acres", and deleted "(or regarded as planted under Public Law 12, Seventy-ninth Congress)" which followed "planted".

Subsec. (f)(6). Act May 28, 1956, § 303(d), substituted "provisions of paragraph (2) of this subsection" for "foregoing provisions of this subsection except paragraph (3) of this subsection" and "the remainder of the county acreage allotment (after making allotments as provided in paragraph (1) of this subsection) shall be allotted to farms other than farms to which an allotment has been made under paragraph (1)(B) of this subsection so that the allotment to each farm under this paragraph together with the amount of the allotment of such farm under paragraph (1)(A) of this subsection shall be a prescribed percentage (which percentage shall be the same for all such farms in the county) of the average acreage planted to cotton on the farm during the three years immediately preceding the year for which such allotment is determined," for "the county acreage allotment, less the acreage reserved under paragraph (3) of this subsection, shall be apportioned to farms on which cotton has been planted in any one of the three years immediately preceding the year for which such allotment is determined, on the basis of the acreage planted to cotton on the farm during such three-year period," and deleted "(A)

apportion such county allotment by first establishing minimum allotments in accordance with paragraph (1) of this subsection and by allotting the remaining acreage to farms other than those receiving an allotment under paragraph (1)(B) in accordance with the foregoing provisions of this paragraph and (B)" following "committee may in its discretion".

1954—Subsec. (e). Act Jan. 30, 1954, § 3(a), added at end "or to correct inequities in farm allotments and to prevent hardship".

Subsec. (f)(3). Act Jan. 30, 1954, § 3(b), inserted ", or in making adjustments in farm acreage allotments to correct inequities and to prevent hardship".

Subsec. (f)(6). Act Aug. 28, 1954, § 310(a), added proviso to first sentence.

Act Jan. 30, 1954, § 3(c), added par. (6).

Subsec. (h). Act Jan. 30, 1954, § 2, added the sentence relating to reallocation of flood lands.

Subsec. (m). Act Jan. 30, 1954, § 1, added subsec. (m).

Subsec. (m)(2). Act Aug. 28, 1954, § 310(b), struck out "1954 or 1955" wherever appearing.

1950—Subsec. (f)(4), (5). Act Mar. 31, 1950, added pars. (4) and (5).

1949—Subsec. (f)(3). Act Oct. 31, 1949, increased the reserve percentage of county allotment from 10 to 15 in the first sentence and decreased percentage of acreage reserved from 30 to 20 in the proviso.

Act Aug. 29, 1949, amended section generally to provide for a national acreage base to be used in apportioning to the States the actual national acreage allotment, and to make the national acreage allotment base and the outlined division among the States such as will complement the minimum national marketing quota provisions and thus permit a gradual reduction of any excessive carryover.

1942—Subsec. (j). Act Feb. 6, 1942, added subsec. (j).

1939—Subsec. (e)(1). Act June 22, 1939, § 1, substituted "For 1938, 1939, and any subsequent year" for "For 1938 and 1939".

Subsec. (g). Act June 22, 1939, § 2, substituted "For 1938, 1939, and each subsequent year" for "For each of the years 1938 and 1939".

Subsec. (h). Act June 22, 1939, § 3, substituted "for 1938, 1939, and each subsequent year" for "For each of the years 1938 and 1939".

Act Mar. 13, 1939, substituted "for any crop year" for "for the crop year 1938" and struck out "for 1938" from the first proviso.

1938—Subsec. (b). Act Apr. 7, 1938, § 9(a), amended second sentence.

Subsec. (d)(3). Act Apr. 7, 1938, § 9(b), inserted after "excluding from such acreage the acres devoted to the production of" in second sentence words "sugarcane for sugar," and after "rice for market or," words "wheat or rice".

Subsec. (e). Act Apr. 7, 1938, § 9(c), designated existing provisions as par. (1) and added paragraph (2).

Subsec. (g). Act Apr. 7, 1938, § 9(d), added subsec. (g).

Subsec. (h). Act May 31, 1938, among other changes, added "and for the crop year 1938 any part of the acreage allotted to individual farms in the State which it is determined, in accordance with regulations prescribed by the Secretary, will not be planted to cotton in the year for which the allotment is made, shall be deducted from the allotments to such farms and may be apportioned, in amounts determined by the Secretary to be fair and reasonable, preference being given to farms in the same county receiving allotments which the Secretary determines are inadequate and not representative in view of the past production of cotton and the acreage diverted from the production of cotton on such farms under the agricultural conservation program in the immediately preceding year: *Provided,* That any such transfer of allotment for 1938 shall not affect apportionment for any subsequent year" after "Secretary".

Act Apr. 7, 1938, § 9(d), added subsec. (h).

Subsec. (i). Act Apr. 7, 1938, § 9(d), added subsec. (i).

EFFECTIVE DATE OF 1958 AMENDMENT

Section 104(e) of Pub. L. 85-835 provided that: "The amendments [to subsecs. (b), (e) and (f)(1), (6) of this section] made by this section shall be effective beginning with the 1959 crop."

Section 105 of Pub. L. 85-835 provided in part that the addition of subsec. (f)(7) to this section by Pub. L. 85-835 shall be effective beginning with the 1959 crop.

EFFECTIVE AND TERMINATION DATES OF 1956 AMENDMENT

Section 303(e) of act May 28, 1956, provided that: "The amendments made by this section [to subsecs. (b), (e), (f)(1) and (f)(6)] shall be effective only with respect to 1957 and 1958 crops. For the 1956 crop, an acreage in each State equal to the acreage allotted in such State which the Secretary determines will not be planted, placed in the acreage reserve or conservation reserve, or considered as planted under section 377 of the Agricultural Adjustment Act of 1938, as amended [section 1377 of this title], may be apportioned by the Secretary among farms in such State having allotments of less than the smaller of the following: (1) four acres, or (2) the highest number of acres planted to cotton in any of the years 1953, 1954, and 1955."

EFFECTIVE DATE OF 1954 AMENDMENTS

Section 3 of act Jan. 30, 1954, provided in part that the amendments made by that section to subsecs. (e) and (f)(3), and that the addition of par. (6) to subsec. (f), shall be "effective beginning with the 1955 crop". The amendments made by such act to subsecs. (h) and (m) took effect on the date of approval of such act (January 30, 1954).

SAVINGS CLAUSE

Transfer or reassignment of allotment as remaining in effect and ineligibility of displaced farm owner for additional allotment notwithstanding repeal of subsec. (h), see note under section 1378 of this title.

INAPPLICABILITY TO UPLAND COTTON OF THE 1971 THROUGH 1977 CROPS

Pub. L. 91-524, title VI, § 601(1), Nov. 30, 1970, 84 Stat. 1371, as amended by Pub. L. 93-86, § 1(19)(A), Aug. 10, 1973, 87 Stat. 233, provided in part this section shall not be applicable to upland cotton of the 1971 through 1977 crops.

EMERGENCY FARM ACREAGE ALLOTMENT

Act Feb. 28, 1945, ch. 15, 59 Stat. 9, provided for farm acreage allotment during national emergency proclaimed by the President on Sept. 8, 1939 and May 27, 1941, and which emergencies terminated on July 25, 1947 by the provisions of Joint Res. July 25, 1947, ch. 327, § 3, 61 Stat. 451.

COUNTY COMMITTEE ALLOTMENT

Act Mar. 13, 1939, in addition to amending former subsec. (h), contained the following proviso: *"Provided,* That hereafter such allotment of acreage in counties shall be to such farms as the County Committee of such county may designate. In making such designation the County Committee shall consider only the character and adaptability of the soil and other physical facilities affecting the production of cotton and the need of operator for an additional allotment to meet the requirement of the families engaging in the production of cotton on the farm in such year."

CROSS REFERENCES

Delegation of regulatory functions of Secretary of Agriculture, see section 450c et seq. of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1346, 1347, 1349, 1350, 1377, 1428, 1443, 1444 of this title.

§ 1344a. Exclusion of 1949 acreage in computation of future allotments

Notwithstanding the provisions of subchapter III of this chapter, or of any other law, State, county, and farm acreage allotments and yields for cotton for any year after 1949 shall be computed without regard to yields or to the acreage planted to cotton in 1949.

(Mar. 29, 1949, ch. 38, 63 Stat. 17.)

CODIFICATION

Section was not enacted as a part of the Agriculture Adjustment Act of 1938 which comprises this chapter.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1344 of this title.

§ 1344b. Sale, lease, or transfer of cotton acreage allotments

(a) Approval of temporary transfers

Notwithstanding any other provision of law, the Secretary shall (1) permit the owner and operator of any farm for which a farm base acreage allotment is established to sell or lease all or any part of the right to all or any part of such allotment to any other owner or operator of a farm for transfer to such farm; and (2) permit the owner of a farm to transfer all or any part of such allotment to any other farm owned or controlled by him: *Provided,* That any temporary transfer of farm acreage allotment by lease or by owner approved by the county committee to take effect during the period 1966 through 1970 for a term extending beyond 1970 shall be approved pro rata on the basis of the farm base acreage allotment for the farm from which the transfer is made, but no temporary transfer by lease entered into after March 15, 1970, shall be approved for 1978 and subsequent crops.

(b) Requisite conditions for transfer of acreage allotments

Transfers under this section shall be subject to the following conditions: (i) no allotment shall be transferred to a farm in another State or to a person for use in another State; (ii) no farm allotment may be sold or leased for transfer to a farm in another county unless the producers of cotton in the county from which transfer is being made have voted in a referendum within three years of the date of such transfer, by a two-thirds majority of the producers participating in such referendum, to permit the transfer of allotments to farms outside the county, which referendum, insofar as practicable, shall be held in conjunction with the marketing quota referendum for the commodity; (iii) no transfer of an allotment from a farm subject to a mortgage or other lien shall be permitted unless the transfer is agreed to by the lienholder; (iv) no sale of a farm allotment shall be permitted if any sale of cotton allotment to the same farm has been made within the three immediately preceding crop years; (v) the total cotton allotment for any farm to which allotment is transferred by sale or lease shall not exceed the farm acreage allotment (excluding reapportioned acreage) established for such farm for 1965 by more than one hundred acres; (vi) no cotton in excess of the remaining acreage allotment on the farm shall be planted on any farm from which the allotment (or part of an allotment) is sold for a period of five years following such sale, nor shall any cotton in excess of the remaining acreage allotment on the farm be planted on any farm from which the allotment (or part of an allotment) is leased during the period of such lease, and the producer on such farm shall so agree as a condition precedent to the Secretary's approval of any such sale or lease; and (vii) no transfer of allotment shall be effective until a record thereof is filed with the county committee of the county to which such transfer is made and such committee determines that the transfer complies with the provisions of this section. Such record may be filed with such committee only during the period beginning June 1 and ending December 31.

(c) Extent of estate transferred

The transfer of an allotment shall have the effect of transferring also the acreage history, farm base, and marketing quota attributable to such allotment and if the transfer is made prior to the determination of the allotment for any year the transfer shall include the right of the owner or operator to have an allotment determined for the farm for such year: *Provided,* That in the case of a transfer by lease, the amount of the allotment shall be considered for purposes of determining allotments after the expiration of the lease to have been planted on the farm from which such allotment is transferred.

(d) Period of ineligibility of land for new allotment

The land in the farm from which the entire cotton allotment and acreage history have been transferred shall not be eligible for a new farm cotton allotment during the five years following the year in which such transfer is made.

(e) Transfer of allotments established under minimum allotment provisions

The transfer of a portion of a farm allotment which was established under minimum farm allotment provisions for cotton or which operates to bring the farm within the minimum farm allotment provision for cotton shall cause the minimum farm allotment or base to be reduced to an amount equal to the allotment remaining on the farm after such transfer.

(f) Rules and regulations

The Secretary shall prescribe regulations for the administration of this section, which shall include provisions for adjusting the size of the allotment transferred if the farm to which the allotment is transferred has a substantially higher yield per acre and such other terms and conditions as he deems necessary.

(g) Adjustment upon transfer of land covered by conservation reserve contract

If the sale or lease occurs during a period in which the farm is covered by a conservation reserve contract, cropland conversion agreement, cropland adjustment agreement, or other similar land utilization agreement, the rates of payment provided for in the contract or agreement of the farm from which the transfer is made shall be subject to an appropriate adjustment, but no adjustment shall be made in the con-

tract or agreement of the farm to which the allotment is transferred.

(h) Exchange of cotton acreage allotments for rice acreage allotments

The Secretary shall by regulations authorize the exchange between farms in the same county, or between farms in adjoining counties within a State, of cotton acreage allotment for rice acreage allotment. Any such exchange shall be made on the basis of application filed with the county committee by the owners and operators of the farms, and the transfer of allotment between the farms shall include transfer of the related acreage history for the commodity. The exchange shall be acre for acre or on such other basis as the Secretary determines is fair and reasonable, taking into consideration the comparative productivity of the soil for the farms involved and other relevant factors. No farm from which the entire cotton or rice allotment has been transferred shall be eligible for an allotment of cotton or rice as a new farm within a period of five crop years after the date of such exchange.

(i) Applicability to cotton restricted to upland cotton

The provisions of this section relating to cotton shall apply only to upland cotton.

(Feb. 16, 1938, ch. 30, title III, § 344a, as added Nov. 3, 1965, Pub. L. 89-321, title IV, § 405, 79 Stat. 1197, and amended Oct. 11, 1968, Pub. L. 90-559, § 1(2), 82 Stat. 996; Nov. 30, 1970, Pub. L. 91-524, title VI, § 601(3)(1), 84 Stat. 1372; Aug. 10, 1973, Pub. L. 93-86, § 1(19)(C), (D), 87 Stat. 233.)

AMENDMENTS

1973—Subsec. (a). Pub. L. 93-86 struck out "for which a farm base acreage allotment is established (other than pursuant to section 1350(e)(1)(A) of this title)" following "to any other owner or operator of a farm" and substituted "1978" for "1974".

1970—Subsec. (a). Pub. L. 91-524 directed the Secretary to permit certain types of transfers of all or part of farm base acreage allotments between farms in the same State.

1968—Subsec. (a). Pub. L. 90-559 provided for a one year extension, substituting "1966 through 1970" for "1966, 1967, 1968, and 1969".

EFFECTIVE DATE OF 1973 AMENDMENT

Section 1(19)(C) of Pub. L. 93-86 provided in part that the amendment by section 1(19)(C) of Pub. L. 93-86, which struck out provisions requiring that transferee farms be farms for which base acreage allotments were established, shall be effective beginning with the 1974 crop.

EFFECTIVE AND TERMINATION DATES OF 1970 AMENDMENT

Section 601(3) of Pub. L. 91-524, as amended by section 1(19)(A) of Pub. L. 93-86, provided in part that the amendment by Pub. L. 91-524 is effective only with respect to the 1971 through 1977 crops.

INAPPLICABILITY TO UPLAND COTTON OF THE 1971 THROUGH 1977 CROPS; TRANSFERS TO FARMS OUTSIDE COUNTY

Section 601(3)(2) of Pub. L. 91-524, as amended by section 1(19)(A) of Pub. L. 93-86, provided that: "Subdivisions (ii), (iv), (v), and (vi) of subsection (b) [of this section], the last sentence of subsection (b) [of this section] and subsections (e) and (h) [of this section] shall not be applicable to the 1971 through 1977 crops: *Provided,* That no farm allotment may be sold or leased for transfer to a farm in another county unless the Agricultural Stabilization and Conservation Committee established pursuant to section 8(b) of the Soil Conservation and Domestic Allotment Act, as amended [section 590h(b) of Title 16], for the county from which such transfers are being made (1) finds that a demand for such acreage allotments no longer exists in such county and (2) approves any transfers of allotments to farms outside such county."

§ 1345. Farm marketing quotas; farm marketing excess

The farm marketing quota for any crop of cotton shall be the actual production of the acreage planted to cotton on the farm less the farm marketing excess. The farm marketing excess shall be the normal production of that acreage planted to cotton on the farm which is in excess of the farm acreage allotment: *Provided,* That such farm marketing excess shall not be larger than the amount by which the actual production of cotton on the farm exceeds the normal production of the farm acreage allotment, if the producer establishes such actual production to the satisfaction of the Secretary.

(Feb. 16, 1938, ch. 30, title III, § 345, 52 Stat. 58; July 3, 1948, ch. 827, title II, § 205, 62 Stat. 1256; Aug. 29, 1949, ch. 518, § 1, 63 Stat. 670; Oct. 31, 1949, ch. 792, title IV, § 415(e), 63 Stat. 1058.)

AMENDMENTS

1949—Act Oct. 31, 1949, repealed amendatory provisions of act July 3, 1948, ch. 827, title II, § 205, 62 Stat. 1256.

Act Aug. 29, 1949, stated what the farm marketing quota shall be and what the farm marketing excess shall be.

1948—Act July 3, 1948, changed the conditions which must be determined by the Secretary to exist before marketing quotas can be imposed.

EFFECTIVE DATE OF 1948 AMENDMENT

Amendment by act July 3, 1948, effective Jan. 1, 1950, see section 303 of act July 3, 1948, set out as a note under section 1301 of this title.

INAPPLICABILITY TO UPLAND COTTON OF THE 1971 THROUGH 1977 CROPS

Pub. L. 91-524, title VI, § 601(1), Nov. 30, 1970, 84 Stat. 1371, as amended by Pub. L. 93-86, § 1(19)(A), Aug. 10, 1973, 87 Stat. 233, provided in part this section shall not be applicable to upland cotton of the 1971 through 1977 crops.

PROCLAMATIONS AFFIRMED

Effect of act Apr. 7, 1938, ch. 107, 52 Stat. 202, see note under section 1312 of this title.

CROSS REFERENCES

Delegation of regulatory functions of Secretary of Agriculture, see section 450c et seq. of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1346, 1349 of this title.

§ 1346. Penalties

(a) Whenever farm marketing quotas are in effect with respect to any crop of cotton, the producer shall be subject to a penalty on the farm marketing excess at a rate per pound equal to 50 per centum of the parity price per pound for cotton as of June 15 of the calendar year in which such crop is produced.

(b) The farm marketing excess of cotton shall be regarded as available for marketing and the amount of penalty shall be computed upon the normal production of the acreage on the farm planted to cotton in excess of the farm acreage allotment. If a downward adjustment in the amount of the farm marketing excess is made pursuant to the proviso in section 1345 of this title, the difference between the amount of the penalty computed upon the farm marketing excess before such adjustment and as computed upon the adjusted farm marketing excess shall be returned to or allowed the producer.

(c) The person liable for payment or collection of the penalty shall be liable also for interest thereon at the rate of 6 per centum per annum from the date the penalty becomes due until the date of payment of such penalty.

(d) Until the penalty on the farm marketing excess is paid, all cotton produced on the farm and marketed by the producer shall be subject to the penalty provided by this section and a lien on the entire crop of cotton produced on the farm shall be in effect in favor of the United States.

(e) Notwithstanding any other provision of this chapter, for the 1966 through 1970 crops of upland cotton, if the farm operator elects to forgo price support for any such crop of cotton by applying to the county committee of the county in which the farm is located for additional acreage under this subsection, he may plant an acreage not in excess of the farm acreage allotment established under section 1344 of this title plus the acreage apportioned to the farm from the national export market acreage reserve, and all cotton of such crop produced on the farm may be marketed for export free of any penalty under this section: *Provided*, That the foregoing shall be applicable only to farms which had upland cotton allotments for 1965 and are operated by the same operator as in 1965 or by his heir.

For the 1966 crop the national export market acreage reserve shall be 250,000 acres. For each subsequent crop—

If the carryover at the end of the marketing year for the preceding crop is estimated to be less than the carryover at the beginning of such marketing year by—	The national export market acreage reserve shall be—
At least 1,000,000 bales	250,000 acres.
At least 750,000 bales, but not as much as 1,000,000 bales	187,500 acres.
At least 500,000 bales, but not as much as 750,000 bales	125,000 acres.
At least 250,000 bales, but not as much as 500,000 bales	62,500 acres.
Less than 250,000 bales	None.

The national export market acreage reserve shall be apportioned to farms by the Secretary on the basis of the applications therefor. No application shall be accepted for a greater acreage than is available on the farm for the production of upland cotton. After apportionments are thus made to farms, the Secretary shall provide farm operators a reasonable time in which to cancel their applications (and agreements to forgo price support) and surrender to the Secretary through the county committee the export market acreage assigned to the farm. Acreage so surrendered shall be available for reassignment by the Secretary to other eligible farms to which export market acreage has been apportioned on the basis of the applications remaining outstanding. The operator of any farm who elects to forgo price support for any such crop under this subsection shall not be eligible for price support on cotton of such crop produced on any other farm in which he has a controlling or substantial interest as determined by the Secretary. Acreage planted to cotton in excess of the farm acreage allotment established under section 1344 of this title shall not be taken into account in establishing future State, county, and farm acreage allotments. The operator of any farm to which export market acreage is apportioned, or the purchasers of cotton produced on such farm, shall, under regulations issued by the Secretary, furnish a bond or other undertaking prescribed by the Secretary, providing for the exportation, without benefit of any Government cotton export subsidy and within such time as the Secretary may specify, of all cotton produced on such farm for such year. The bond or other undertaking given pursuant to this subsection shall provide that, upon failure to comply with the terms and conditions thereof, the person furnishing such bond or other undertaking shall be liable for liquidated damages in an amount which the Secretary determines and specifies in such undertaking will approximate the amount payable on excess cotton under subsection (a) of this section. The Secretary may, in lieu of the furnishing of a bond or other undertaking, provide for the payment of an amount equal to that which would be payable as liquidated damages under such bond or other undertaking. If such bond or other undertaking is not furnished, or if payment in lieu thereof is not made as provided herein, at such time and in the manner required by regulations of the Secretary, or if the acreage planted to cotton on the farm exceeds the sum of the farm acreage allotment established under section 1344 of this title and the acreage apportioned to the farm from the national export market acreage reserve, the acreage planted to cotton in excess of the farm acreage allotment established under section 1344 of this title shall be regarded as excess acreage for purposes of this section and section 1345 of this title. Amounts collected by the Secretary under this subsection shall be remitted to the Commodity Credit Corporation.

(Feb. 16, 1938, ch. 30, title III, § 346, 52 Stat. 59; Aug. 29, 1949, ch. 518, § 1, 63 Stat. 670; Nov. 3, 1965, Pub. L. 89-321, title IV, § 401(2), 79 Stat. 1192; Oct. 11, 1968, Pub. L. 90-559, § 1(2), 82 Stat. 996.)

AMENDMENTS

1968—Subsec. (e). Pub. L. 90-559 provided for a one year extension, substituting "1966 through 1970" for "1966, 1967, 1968, and 1969".

1965—Subsec. (e). Pub. L. 89-321 added subsec. (e).

1949—Act Aug. 29, 1949, amended section generally. Former provisions of section are now covered by section 1345 of this title.

INAPPLICABILITY TO UPLAND COTTON OF THE 1971 THROUGH 1977 CROPS

Pub. L. 91-524, title VI, § 601(1), Nov. 30, 1970, 84 Stat. 1371, as amended by Pub. L. 93-86, § 1(19)(A),

Aug. 10, 1973, 87 Stat. 233, provided in part that this section shall not be applicable to upland cotton of the 1971 through 1977 crops.

REMOVAL OF MARKETING PENALTIES ON CERTAIN LONG STAPLE COTTON

Act Jan. 9, 1951, ch. 1215, 64 Stat. 1237, provided that the marketing penalty provided in this section, shall not be applied to long staple cotton of the 1950 crop ginned on saw type gins where such action was necessary to conserve the cotton because of frost or weather damage.

CROSS REFERENCES

Agreement for adjustment of acreage or production of basic agricultural commodities, see section 608 et seq. of this title.

Sugar quotas, see section 1111 et seq. of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1347, 1349 of this title.

§ 1347. Long staple cotton

(a) Exemptions

Except as otherwise provided by this section, the provisions of this subpart shall not apply to extra long staple cotton which is produced from pure strain varieties of the Barbadense species, or any hybrid thereof, or other similar types of extra long staple cotton designated by the Secretary having characteristics needed for various end uses for which American upland cotton is not suitable, and grown in irrigated cotton-growing regions of the United States designated by the Secretary or other areas designated by the Secretary as suitable for the production of such varieties or types.

(b) National marketing quotas

(1) The Secretary shall, not later than October 15 of each calendar year, proclaim the amount of the national marketing quota for the crop of cotton described in subsection (a) of this section produced in the next succeeding calendar year in terms of the quantity of such cotton equal to the estimated domestic consumption plus exports for the marketing year which begins in such succeeding calendar year, less the estimated imports, plus such additional number of bales, if any, as the Secretary determines is necessary to assure adequate working stocks in trade channels until cotton from the next crop becomes readily available without resort to Commodity Credit Corporation stocks: *Provided*, That the Secretary may reduce the national marketing quota so determined for any crop for the purpose of reducing surplus stocks, but not below the minimum quota prescribed under paragraph (2) of this subsection.

(2) The national marketing quota for any crop shall not be less than the amount of the import quota in effect on August 1, 1967, for the year beginning on such date for extra long staple cotton (one and three-eighths inches or more) in pounds converted to standard bales of five hundred pounds gross weight, established pursuant to section 624 of this title.

(3) Notwithstanding the provisions of paragraph (1) of this subsection, the national marketing quota shall be the minimum quota under paragraph (2) of this subsection for each crop of such cotton for which the Secretary estimates that the carryover of American grown extra long staple cotton at the beginning of the marketing year for the crop for which the quota is proclaimed (excluding any such cotton in the stockpile established pursuant to the Strategic and Critical Materials Stock Piling Act, as amended [50 U.S.C. 98 et seq.]) will be more than 50 per centum of the estimated domestic consumption and exports of American grown extra long staple cotton for such marketing year: *Provided*, That the foregoing provisions of this sentence shall not apply for any crop for which the carryover so estimated is an amount equal to 50 per centum or less of the estimated domestic consumption and exports of American grown extra long staple cotton for the marketing year for such crop, and such provisions shall not apply to any crop following the first crop for which this proviso comes into operation.

(4) The provisions of paragraphs (1), (2), and (3) of this subsection shall apply to the 1969 and each succeeding crop of cotton described in subsection (a) of this section.

(c) Minimum small farm allotments; penalty rate

All provisions of this chapter, except sections 1342 and 1344(h), (k), (*l*) of this title, the parenthetical provisions relating to acreages regarded as having been planted to cotton, and the provisions relating to minimum small farm allotments, shall, insofar as applicable, apply to marketing quotas and acreage allotments authorized by this section: *Provided*, That the applicable penalty rate for such cotton under section 1346 of this title shall be the higher of 50 per centum of the parity price or 50 per centum of the support price for extra long staple cotton as of the date specified therein.

(d) Exemption from penalty rate

Unless marketing quotas are in effect under subsection (b) of this section, the penalty provisions of section 1346 of this title shall not apply to any cotton the staple of which is one and one-half inches or more in length.

(e) Applicability of exemptions

The exemptions authorized by subsections (a) and (d) of this section shall not apply unless (1) the cotton is ginned on a roller-type gin or (2) the Secretary authorizes the cotton to be ginned on another type gin for experimental purposes or to prevent loss of the cotton due to frost or other adverse condition.

(f) Sale or lease of acreage allotment; transfer of allotment; rules and regulations.

Notwithstanding any other provision of law, beginning with the 1968 crop of extra long staple cotton, the Secretary, if he determines that it will not impair the effective operation of the program involved, (1) may permit the owner and operator of any farm for which an extra long staple cotton acreage allotment is established to sell or lease all or any part or the right to all or any part of such allotment to any other owner or operator of a farm for transfer to such farm; (2) may permit the owner of a farm to transfer all or any part of such allotment to any other farm owned or controlled by him. No allotment shall be transferred under this subsection to a farm in another State or to a person for use in another State. The Secretary shall prescribe regulations for the adminis-

tration of this subsection and may prescribe such terms and conditions as he deems necessary.

(g) Increase of allotment; reduction of soil conserving base

Notwithstanding any other provision of law, if the extra long staple cotton acreage allotment established for any farm for the 1968 and subsequent crops is greater than such allotment for the preceding crop, because of transfers under subsection (f) of this section or for any other reason, the soil conserving base established for the farm shall be reduced by the same number of acres that the allotment is increased for that year.

(Feb. 16, 1938, ch. 30, title III, § 347, 52 Stat. 59; Aug. 29, 1949, ch. 518, § 1, 63 Stat. 670; July 17, 1952, ch. 933, § 4, 66 Stat. 759; Aug. 28, 1958, Pub. L. 85-835, title I, § 103(3), 72 Stat. 990; Sept. 21, 1959, Pub. L. 86-341, title II, § 203, 73 Stat. 611; June 30, 1960, Pub. L. 86-566, 74 Stat. 295; Aug. 11, 1968, Pub. L. 90-475, §§ 4, 6, 82 Stat. 701, 702.)

REFERENCES IN TEXT

The Strategic and Critical Materials Stockpiling Act, as amended, referred to in subsec. (b)(3), is act June 7, 1939, ch. 190, 53 Stat. 811, which is classified generally to subchapter III (§ 98 et seq.) of chapter 5 of Title 50, War and National Defense. For complete classification of this Act to the Code, see Short Title note set out under section 98 of Title 50 and Tables volume.

Section 1344(h) of this title, referred to in subsec. (c), was repealed by act Feb. 16, 1938, ch. 30, title III, § 378(d), as added Pub. L. 85-835, title V, § 501, Aug. 28, 1958, 72 Stat. 996.

AMENDMENTS

1968—Subsec. (b). Pub. L. 90-475, § 4, divided subsec. (b) into pars. (1) to (4), and substituted provisions requiring that the national marketing quota for long staple cotton be equal to the estimated domestic consumption, as adjusted by the specified factors, provisions setting forth the minimum national marketing quota based on the import quota of extra long staple cotton and adjusted by the carryover of American grown extra long staple cotton and the domestic consumption of such cotton, and provisions that the determination of the national marketing quota apply to the 1969 crop and each succeeding crop, for provisions requiring the Secretary to proclaim a national marketing quota when the cotton supply exceeded the normal supply for the marketing year by 8 percent, provisions authorizing the Secretary to determine the national marketing quota so as to insure an adequate supply as adjusted by certain specified factors, and provisions setting forth a minimum national marketing quota, with the proviso that the quota for 1960 and 1961 was not to be less than 90 percent of the 1959 quota.

Subsecs. (f), (g). Pub. L. 90-475, § 6, added subsecs. (f) and (g).

1960—Subsec. (b). Pub. L. 86-566 provided that the national marketing quota for the 1961 crop of extra long staple cotton shall not be less than 90 per centum of the 1959 marketing quota for such cotton.

1959—Subsec. (b). Pub. L. 86-341 provided that the national marketing quota for the 1960 crop of extra long staple cotton shall be not less than 90 per centum of the 1959 marketing quota for such cotton.

1958—Subsec. (b). Pub. L. 85-835 provided that beginning with the 1961 crop the national marketing quota for extra long staple cotton would be an amount equal to estimated domestic consumption plus exports less imports, plus such additional number of bales as the Secretary determines is necessary to assure adequate working stocks until cotton from next cotton crop becomes readily available.

1952—Act July 17, 1952, amended section generally to determine the level of price support, to fix a marketing quota, and to adjust the penalty.

1949—Act Aug. 29, 1949, amended section generally. Former provisions of section are now covered by section 1343 of this title.

PROCLAMATIONS AFFIRMED

Effect of act April 7, 1938, ch. 107, 52 Stat. 202, see note under section 1312 of this title

CROSS REFERENCES

Price support—
Extension to seeds and products defined in subsection (a) of this section, see section 1432 of this title.
Levels, see section 1441 of this title.
Referendum on orders regulating handling of commodities, see section 608c of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1344, 1427, 1432, 1441 of this title.

§ 1348. Payments in kind to equalize cost of cotton to domestic and foreign users; rules and regulations; termination date; persons eligible; amount; terms and conditions; raw cotton in inventory

In order to maintain and expand domestic consumption of upland cotton produced in the United States and to prevent discrimination against the domestic users of such cotton, notwithstanding any other provision of law, the Commodity Credit Corporation, under such rules and regulations as the Secretary may prescribe, is authorized and directed for the period beginning with April 11, 1964 and ending July 31, 1966, to make payments through the issuance of payment-in-kind certificates to persons other than producers in such amounts and subject to such terms and conditions as the Secretary determines will eliminate inequities due to differences in the cost of raw cotton between domestic and foreign users of such cotton, including such payments as may be necessary to make raw cotton in inventory on April 11, 1964 available for consumption at prices consistent with the purposes of this section: *Provided,* That for the period beginning August 1 of the marketing year for the first crop for which price support is made available under section 1444(b) of this title, and ending July 31, 1966, such payments shall be made in an amount which will make upland cotton produced in the United States available for domestic use at a price which is not in excess of the price at which such cotton is made available for export. The Secretary may extend the period for performance of obligations incurred in connection with payments made for the period ending July 31, 1966, or may make payments on raw cotton in inventory on July 31, 1966, at the rate in effect on such date. No payments shall be made hereunder with respect to 1966 crop cotton.

(Feb. 16, 1938, ch. 30, title III, § 348, as added Apr. 11, 1964, Pub. L. 88-297, title I, § 101, 78 Stat. 173, and amended Nov. 3, 1965, Pub. L. 89-321, title IV, § 401(1), 79 Stat. 1192.)

PRIOR PROVISIONS

A prior section 1348, acts Feb. 16, 1938, ch. 30, title III, § 348, 52 Stat. 59; Aug. 29, 1949, ch. 518, § 1, 63

Stat. 670; Aug. 28, 1954, ch. 1041, title III, § 311(a), 68 Stat. 904, prohibited agricultural conservation program payments to any farmer who knowingly harvested any basic commodity in excess of his acreage allotment and was repealed by act May 23, 1955, ch. 45, 69 Stat. 65.

Act May 23, 1955, provided in part that the repeal of former section 1348 of this title by such act was to be effective with respect to 1955 and subsequent crops.

AMENDMENTS

1965—Pub. L. 89-321 authorized the Secretary to extend the period for the performance of obligations incurred in connection with payments made for the period ending July 31, 1966, or to make payments in raw cotton in inventory on July 31, 1966.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1344, 1385, 1444 of this title.

§ 1349. Export market acreage

(a) Supplementary allotments for 1964 and 1965; acreage limitation; apportionment among States and farms; "export market acreage" on any farm; farm acreage allotment for farms with export acreage; additional allotment; establishment of future allotments without regard to export acreage; exclusion of extra-long-staple cotton and farms receiving additional price support for 1964 and 1965

The acreage allotment established under the provisions of section 1344 of this title for each farm for the 1964 crop may be supplemented by the Secretary by an acreage equal to such percentage, but not more than 10 per centum, of such acreage allotment as he determines will not increase the carryover of upland cotton at the beginning of the marketing year for the next succeeding crop above one million bales less than the carryover on the same date one year earlier, if the carryover on such earlier date exceeds eight million bales. For the 1965 crop, the Secretary may, after such hearing and investigation as he finds necessary, announce an export market acreage which he finds will not increase the carryover of upland cotton at the beginning of the marketing year for the next succeeding crop above one million bales less than the carryover on the same date one year earlier, if the carryover on such earlier date exceeds eight million bales. Such export market acreage shall be apportioned to the States on the basis of the State acreage allotments established under section 1344 of this title and apportioned by the States to farms receiving allotments under section 1344 of this title, pursuant to regulations issued by the Secretary, after considering applications for such acreage filed with the county committee of the county in which the farm is located. The "export market acreage" on any farm shall be the number of acres, not exceeding the maximum export market acreage for the farm established pursuant to this subsection, by which the acreage planted to cotton on the farm exceeds the farm acreage allotment. For purposes of sections 1345 and 1374 of this title and the provisions of any law requiring compliance with a farm acreage allotment as a condition of eligibility for price support or payments under any farm program, the farm acreage allotment for farms with export market acreage shall be the sum of the farm acreage allotment established under section 1344 of this title and the maximum export market acreage. Export market acreage shall be in addition to the county, State, and National acreage allotments and shall not be taken into account in establishing future State, county, and farm acreage allotments. The provisions of this section shall not apply to extra-long-staple cotton or to any farm which receives price support under section 1444(b) of this title.

(b) Bond, other undertaking, and lieu payments for exportation without subsidy and within specified period; terms and conditions; liquidated damages; farm acreage allotment upon noncompliance with conditions; remissions to CCC for defraying costs of encouraging export sales of cotton

The producers on any farm on which there is export market acreage or the purchasers of cotton produced thereon shall, under regulations issued by the Secretary, furnish a bond or other undertaking prescribed by the Secretary providing for the exportation, without benefit of any Government cotton export subsidy and within such period of time as the Secretary may specify, of a quantity of cotton produced on the farm equal to the average yield for the farm multiplied by the export market acreage as determined pursuant to regulations issued by the Secretary. The bond or other undertaking given pursuant to this section shall provide that, upon failure to comply with the terms and conditions thereof, the person furnishing such bond or other undertaking shall be liable for liquidated damages in an amount which the Secretary determines and specifies in such undertaking will approximate the amount payable on excess cotton under section 1346(a) of this title. The Secretary may, in lieu of the furnishing of a bond or other undertaking, provide for the payment of an amount equal to that which would be payable as liquidated damages under such bond or other undertaking. If such bond or other undertaking is not furnished, or if payment in lieu thereof is not made as provided herein, at such time and in the manner required by regulations of the Secretary, or if the acreage planted to cotton on the farm exceeds the farm acreage allotment established under the provisions of section 1344 of this title by more than the maximum export market acreage, the farm acreage allotment shall be the acreage so established under section 1344 of this title. Amounts collected by the Secretary under this section shall be remitted to the Commodity Credit Corporation and used by the Corporation to defray costs of encouraging export sales of cotton under section 1853 of this title.

(Feb. 16, 1938, ch. 30, title III, § 349, as added Apr. 11, 1964, Pub. L. 88-297, title I, § 106(1), 78 Stat. 175.)

PRIOR PROVISIONS

A prior section 1349, act Feb. 16, 1938, ch. 30, title III, § 349, 52 Stat. 59, was omitted by act Aug. 29, 1949, ch. 518, § 1, 63 Stat. 670 which amended sections 342 to 350 of act Feb. 16, 1938, ch. 30, title III, 52 Stat. 56 to 60 (sections 1342 to 1344, 1345 to 1347, and prior sections 1348 to 1350 of this title) to be sections 342 to 348 of act Feb. 16, 1938 (sections 1342 to 1344, 1345 to 1347, and a prior section 1348 of this title).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1376 of this title.

§ 1350. National base acreage allotment

(a) Establishment

The Secretary shall establish for each of the 1971 through 1977 crops of upland cotton a national base acreage allotment. Such national base acreage allotment shall be announced not later than November 15 of the calendar year preceding the year for which the national base acreage allotment is to be effective. The national base acreage allotment for any crop of cotton shall be the number of acres which the Secretary determines on the basis of the expected national yield will produce an amount of cotton equal to the estimated domestic consumption of cotton (standard bales of four hundred and eighty pounds net weight) for the marketing year beginning in the year in which the crop is to be produced, plus not to exceed 25 per centum thereof if the Secretary, taking into consideration other actions he may take under the Agricultural Act of 1970, determines that such additional amount is necessary to provide for a production which will equal the national cotton production goal, except that such national base acreage allotment shall be eleven million five hundred thousand acres for the 1971 crop and in the case of the 1972 through 1977 crops shall be in such amount as the Secretary determines necessary to maintain adequate supplies. The national base acreage allotment for the 1974 through 1977 crops shall not be less than eleven million acres.

(b) Apportionment to States

The national base acreage allotment for each crop of upland cotton shall be apportioned by the Secretary to the States on the basis of the acreage planted (including acreage regarded as having been planted) to upland cotton within the farm acreage allotment or the farm base acreage allotment, whichever is in effect, during the five calendar years immediately preceding the calendar year in which the national cotton production goal is proclaimed, with adjustments for abnormal weather conditions or other natural disaster during such period.

(c) Apportionment to counties

The State base acreage allotment for each crop of upland cotton shall be apportioned to counties on the same basis as to years and conditions as is applicable to the State under subsection (b) of this section: *Provided,* That the State committee may reserve not to exceed 2 per centum of its State acreage allotment which shall be used to make adjustments in county allotments for trends in acreage, for counties adversely affected by abnormal conditions affecting plantings, or for small or new farms, or to correct inequities in farm allotments and to prevent hardships.

(d) Adjustment of apportionment bases for counties

The Secretary shall adjust the apportionment base for each county as may be necessary because of transfers of allotments across county lines.

(e) Apportionment to farms

(1) The county base acreage allotment for the 1971 crop shall be apportioned to old cotton farms in the county on the basis of the domestic acreage allotment established for the farm for the 1970 crop. For the 1972 and each subsequent crop of upland cotton the county base acreage allotment shall be apportioned to old cotton farms in the county on the basis of the farm base acreage allotment established for such farm for the preceding year. The county committee may reserve not in excess of 10 per centum of the county allotment which, in addition to the acreage made available under the proviso in subsection (c) of this section, shall be used for (A) establishing allotments for farms on which cotton was not planted (or regarded as planted) during any of the three calendar years immediately preceding the year for which the allotment is made, on the basis of land, labor, and equipment available for the production of cotton, crop-rotation practices, and the soil and other physical facilities affecting the production of cotton; and (B) making adjustments of the farm allotments established under this paragraph so as to establish allotments which are fair and reasonable in relation to the factors set forth in this paragraph and abnormal conditions of production on such farms, or in making adjustments in farm allotments to correct inequities and to prevent hardships. No part of such reserve shall be apportioned to a farm to reflect new cropland brought into production after November 30, 1970.

(2) If for any crop the total acreage of cotton planted on a farm is less than the farm base acreage allotment, the farm base acreage allotment used as a base for the succeeding crop shall be reduced by the percentage by which such planted acreage was less than such farm base acreage allotment, but such reduction shall not exceed 20 per centum of the farm base acreage allotment for the preceding crop. If not less than 90 per centum of the base acreage allotment for the farm is planted to cotton, the farm shall be considered to have an acreage planted to cotton equal to 100 per centum of such allotment. For purposes of this paragraph, an acreage on the farm which the Secretary determines was not planted to cotton because of drought, flood, other natural disaster, or a condition beyond the control of the producer shall be considered to be an acreage planted to cotton. For the purpose of this paragraph, the Secretary shall, in the event producers of wheat or feed grains are permitted to do so, permit producers of cotton to have acreage devoted to soybeans, wheat, feed grains, guar, castor beans, triticale, oats, rye or such other crops as the Secretary may deem appropriate considered as devoted to the production of cotton to such extent and subject to such terms and conditions as the Secretary determines will not impair the effective operation of the cotton or soybean program.

(3) If no acreage is planted to cotton for any three consecutive crop years on any farm which had a farm base acreage allotment for such years, such farm shall lose its base acreage allotment.

(f) Surrender of farm base acreage allotments

Effective for the 1971 through 1977 crops, any part of any farm base acreage allotment on which upland cotton will not be planted and which is voluntarily surrendered to the county committee shall be deducted from the farm base acreage allotment for such farm and may be reapportioned by the county committee to other farms in the same county receiving farm base acreage allotments in amounts determined by the county committee to be fair and reasonable on the basis of past acreage of upland cotton, land, labor, equipment available for the production of upland cotton, crop rotation practices, and soil and other physical facilities affecting the production of upland cotton. If all of the acreage voluntarily surrendered is not needed in the county, the county committee may surrender the excess acreage to the State committee to be used to make adjustments in farm base acreage allotments for other farms in the State adversely affected by abnormal conditions affecting plantings or to correct inequities or to prevent hardship. Any farm base acreage allotment released under this provision shall be regarded for the purpose of establishing future farm base acreage allotments as having been planted on the farm and in the county where the release was made rather than on the farm and in the county to which the allotment was transferred: *Provided*, That, notwithstanding any other provision of law, any part of any farm base acreage allotment for any crop year may be permanently released in writing to the county committee by the owner and operator of the farm and reapportioned as provided herein. Acreage released under this subsection shall be credited to the State in determining future allotments.

(g) Compliance with set-aside requirements

Any farm receiving any base acreage allotment through release and reapportionment or sale, lease, or transfer shall, as a condition to the right to receive such allotment, comply with the set-aside requirements of section 1444(e)(4) of this title applicable to such acreage as determined by the Secretary.

(h) Transfer of farm base acreage allotments not planted because of natural disaster or conditions beyond control of producer

Notwithstanding any other provision of this chapter, if the Secretary determines for any year that because of drought, flood, other natural disaster, or a condition beyond the control of the producer a portion of the farm base acreage allotment in a county cannot be timely planted or replanted in such year, he may authorize for such year the transfer of all or a part of such cotton acreage for any farm in the county so affected to another farm in the county or in any other nearby county on which one or more of the producers on the farm from which the transfer is to be made will be engaged in the production of upland cotton and will share in the proceeds thereof, in accordance with such regulations as the Secretary may prescribe. Any farm base acreage allotment transferred under this subsection shall be regarded as planted to upland cotton on the farm and in the county and State from which transfer is made for purposes of establishing future farm, county and State allotments.

(Feb. 16, 1938, ch. 30, title III, § 350, as added Apr. 11, 1964, Pub. L. 88-297, title I, § 105, 78 Stat. 175, and amended Nov. 3, 1965, Pub. L. 89-321, title IV, § 401(3), 79 Stat. 1193; Oct. 11, 1968, Pub. L. 90-559, § 1(2), 82 Stat. 996; Nov. 30, 1970, Pub. L. 91-524, title VI, § 601(4), 84 Stat. 1372; Aug. 10, 1973, Pub. L. 93-86, § 1(19)(A), (D)-(G), 87 Stat. 233.)

REFERENCES IN TEXT

The Agricultural Act of 1970, referred to in subsec. (a), is Pub. L. 91-524, Nov. 30, 1970, 84 Stat. 1358. For classification of this Act to the Code, see Short Title of 1970 Amendment note set out under section 1305 of this title.

PRIOR PROVISIONS

A prior section 1350, act Feb. 16, 1938, ch. 30, title III, § 350, 52 Stat. 60, was omitted by act Aug. 29, 1949, ch. 518, § 1, 63 Stat. 670, which amended sections 342 to 350 of act Feb. 16, 1938, ch. 30, title III, 52 Stat. 56 to 60 (sections 1342 to 1344, 1345 to 1347, and prior sections 1348 to 1350 of this title) to be sections 342 to 348 of act Feb. 16, 1938 (sections 1342 to 1344, 1345 to 1347, and a prior section 1348 of this title). The provisions of former section 1350 are now covered by section 1347 of this title.

AMENDMENTS

1973—Subsec. (a). Pub. L. 93-86, § 1(19)(A), (D), (E), substituted "1971 through 1977" for "1971, 1972, and 1973" and "1972 through 1977" for "1972 and 1973" and added requirement that the national base acreage allotment for the 1974 through 1977 crops shall not be less than eleven million acres.

Subsec. (e) (2). Pub. L. 93-86, § 1(19)(F), substituted "soybeans, wheat, feed grains, guar, castor beans, triticale, oats, rye or such other crops as the Secretary may deem appropriate" for "soybeans, wheat or feed grains".

Subsec. (f). Pub. L. 93-86, § 1(19)(A), substituted "1971 through 1977" for "1971, 1972, and 1973".

Subsec. (h). Pub. L. 93-86, § 1(19)(G) substituted "to another farm in the county or in any other nearby county" for "to another farm in the county or in an adjoining county".

1970—Subsec. (a). Pub. L. 91-524 designated existing provisions as subsec. (a) and, in subsec. (a) as so redesignated, substituted provisions for the establishment of a national base acreage allotment covering each of the 1971, 1972, and 1973 crops of upland cotton for provisions authorizing the establishing of a national domestic allotment for the 1966 through 1970 crops of upland cotton.

Subsecs. (b) to (h). Pub. L. 91-524 added subsecs. (b) to (h).

1968—Pub. L. 90-559 provided for a one year extension, substituting "1966 through 1970" for "1966, 1967, 1968, and 1969".

1965—Pub. L. 89-321 extended the domestic acreage allotment program through the 1969 crop and otherwise amended the section generally to authorize the establishment of a national domestic allotment for each crop year equal to the estimated domestic consumption for the marketing year beginning in the year in which the crop is to be produced and to authorize the determination of a farm domestic acreage allotment percentage for each year by dividing the national domestic allotment by the total for all states of the product of the state acreage allotment and the projected state yield.

EFFECTIVE DATE OF 1973 AMENDMENT

Section 1(19)(E) of Pub. L. 93-86 provided in part that the amendment by section 1(19)(E) of Pub. L. 93-86, setting a minimum of eleven million acres for the national base acreage allotment for the 1974 through

1977 crops, shall be effective beginning with the 1974 crop.

Section 1(19)(F) of Pub. L. 93-86 provided in part that the amendment by section 1(19)(F) of Pub. L. 93-86 shall be effective beginning with the 1974 crop.

Section 1(19(G) of Pub. L. 93-86 provided in part that the amendment by section 1(19)(G) of Pub. L. 93-86 shall be effective beginning with the 1974 crop.

EFFECTIVE DATE OF 1970 AMENDMENT

Section 601 of Pub. L. 91-524 provided in part that the amendment by Pub. L. 91-524 is effective beginning with the 1971 crop of upland cotton.

EFFECTIVE DATE OF 1965 AMENDMENT

Section 401(3) of Pub. L. 89-321 provided in part that amendment of this section by section 401(3) of Pub. L. 89-321 is effective with the 1966 crop.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1344, 1377, 1444 of this title.

§ 1350a. Annual report to Congress

The Secretary shall file annually with the President for transmission to the Congress a complete report of the programs carried out under this title. Such report shall include the amount of funds spent, the purposes for which such funds were spent, the basis for participation in such programs in the various States, and an appraisal of the effectiveness of the programs.

(Pub. L. 91-524, title VI, § 609, Nov. 30, 1970, 84 Stat. 1378.)

REFERENCES IN TEXT

This title, referred to in text, is title VI of the Agriculture Act of 1970, Pub. L. 91-524, Nov. 30, 1970, 84 Stat. 1371. For classification of this Act to the Code, see Tables volume.

CODIFICATION

Section was enacted as part of the Agriculture Act of 1970, and not as part of the Agriculture Adjustment Act of 1938 which comprises this chapter.

SUBPART V—MARKETING QUOTAS—RICE

§ 1351. Legislative findings

(a) The marketing of rice constitutes one of the great basic industries of the United States with ramifying activities which directly affect interstate and foreign commerce at every point, and stable conditions therein are necessary to the general welfare. Rice produced for market is sold on a Nation-wide market, and, with its products, moves almost wholly in interstate and foreign commerce from the producer to the ultimate consumer. The farmers producing such commodity are subject in their operations to uncontrollable natural causes, in many cases such farmers carry on their farming operations on borrowed money or leased lands, and are not so situated as to be able to organize effectively, as can labor and industry through unions and corporations enjoying Government sanction and protection for joint economic action. For these reasons, among others, the farmers are unable without Federal assistance to control effectively the orderly marketing of such commodity with the result that abnormally excessive supplies thereof are produced and dumped indiscriminately on the Nation-wide market.

(b) The disorderly marketing of such abnormally excessive supplies affects, burdens, and obstructs interstate and foreign commerce by (1) materially affecting the volume of such commodity marketed therein, (2) disrupting the orderly marketing of such commodity therein, (3) reducing the prices for such commodity with consequent injury and destruction of such commerce in such commodity, and (4) causing a disparity between the prices for such commodity in interstate and foreign commerce and industrial products therein, with a consequent diminution of the volume of interstate and foreign commerce in industrial products.

(c) Whenever an abnormally excessive supply of rice exists, the marketing of such commodity by the producers thereof directly and substantially affects interstate and foreign commerce in such commodity and its products, and the operation of the provisions of this subpart becomes necessary and appropriate in order to promote, foster, and maintain an orderly flow of such supply in interstate and foreign commerce.

(Feb. 16, 1938, ch. 30, title III, § 351, 52 Stat. 60.)

CROSS REFERENCES

Rice, supplemental legislative findings, see section 1380a of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1380a of this title.

§ 1352. National acreage allotment and allocation

(a) Acreage allotments, 1976 and 1977

The Secretary shall establish for each of the 1976 and 1977 crops of rice a national acreage allotment in the amount of one million eight hundred thousand acres.

(b) Apportionment to farms and producers; basis; adjustment; reservation of acreage

The national acreage allotment for each such crop of rice shall be apportioned by the Secretary to farms, and in producer States and administrative areas, to producers on the basis of the rice allotments established for the 1975 crop as adjusted in accordance with subsection (c) of this section: *Provided,* That not to exceed 1 per centum of the national acreage allotment apportioned within each State may be reserved by the State committee for (1) apportionment to new rice farms and new rice producers on the basis of the following factors: suitability of the land for the production of rice, the extent to which the farm operator (or produced in the case of a producer allotment) is dependent on income from farming for his livelihood, the production of rice on other farms owned, operated, or controlled by such person, and such other factors as the State committee determines should be considered for the purpose of establishing fair and equitable rice allotments; (2) making adjustments in farm allotments to correct inequities or to prevent hardship; and (3) making corrections in farm or producer allotments.

(c) Reduction or loss of farm or producer allotments; other acreage considered rice acreage

(1) If for any crop the total acreage planted to rice on a farm is less than the rice allotment for the farm (or in producer administrative areas, the producer allotments allocated to the farm), the farm or producer allotment used as a base for the succeeding crop shall be reduced by the percentage by which such planted acreage was less than the allotment for the farm, but such reduction shall not exceed 20 per centum of the farm or producer allotment for the preceding crop; except that if not less than 90 per centum of the farm acreage allotment is planted to rice, the farm shall be considered to have an acreage planted to rice equal to 100 per centum of such allotment. For purposes of this paragraph, an acreage on the farm which the Secretary determines was not planted to rice because of drought, flood, other natural disaster, or a condition beyond the control of the producer shall be considered to be an acreage planted to rice. For the purpose of this paragraph, the Secretary may permit producers of rice to have acreage devoted to soybeans, wheat, feed grains, sugar, castor beans, triticale, oats, cotton, rye, or such other crops as the Secretary may deem appropriate, considered as devoted to the production of rice to such extent and subject to such terms and conditions as the Secretary determines will not impair the effective operation of the rice program.

(2) If no acreage is planted (or regarded as planted) to rice for two consecutive crop years on any farm which had a farm acreage allotment for such years or for any producer which has a producer allotment for such years, such farm or producer shall lose it allotment.

(3) Notwithstanding the provisions of paragraphs (1) and (2) of this subsection, no farm or producer allotment shall be reduced or lost through failure to plant, if the cooperator elects not to receive payments for the portion of the farm or producer allotment not planted to which he would otherwise be entitled under the provisions of section 1441(g) of this title.

(d) Transfer of acreage allotments not planted because of natural disaster or conditions beyond control of persons involved in production of rice; farm yield for determination of amount of payments and loans

Notwithstanding any other provision of this chapter, if the Secretary determines for any year that, because of drought, flood, other natural disaster, or a condition beyond the control of the person involved in the production of rice, none or only part of the acres of an allotment can be timely planted or replanted by or for such person in such year, the Secretary may authorize for such year the transfer of the total number of such acres which are so affected to another farm in the same or any nearby county, but within the same administrative area, on which one or more persons on the farm from which the transfer is made will be engaged in the production of rice and will share in the proceeds thereof, in accordance with such regulations as the Secretary may prescribe. Any allotment, or portion thereof, transferred under this subsection shall be regarded as planted to rice on the farm from which the transfer is made for purposes of establishing future farm allotments. For the purpose of determining the amount of payments and loans made under section 1441(g) of this title with regard to farms to which allotments, or portions thereof, are transferred under this subsection, the Secretary shall establish a farm yield for any such farm for which there is no established yield.

(e) Sale, lease, or transfer of rice acreage allotments; apportionment among heirs or devisees of producer on basis of past production; dissolution of partnership producer; reapportionment of surrendered acreage

(1) The Secretary shall permit the owner and operator of any farm for which a farm acreage allotment has been established to sell or lease all or any part, or the right to all or any part of such allotment, to any other owner or operator of a farm in the same administrative area, or to transfer all or any part of such allotment to any other farm owned or controlled by him in the same administrative area. The Secretary shall also permit the person for whom a producer allotment has been established to sell or lease all or any part of such allotment to any other person in the same administrative area.

(2)(A) If a producer in a State in which farm rice acreage allotments are determined on the basis of past production of rice by the producer on the farm dies, his history of rice production shall be apportioned in the whole or in part among his heirs or devisees according to the extent to which they may continue, or have continued, his farming operations, if satisfactory proof of such succession of farming operations is furnished the Secretary.

(B) Upon dissolution of a partnership in a State in which farm rice acreage allotments are determined on the basis of past production of rice by the producer on the farm, the partnership's history of rice production shall be divided among the partners in such proportion as agreed upon in writing by the partners.

(C) Any part of the farm rice acreage allotment on which rice will not be planted and which is voluntarily surrendered to the county committee shall be deducted from the allotment to such farm and may be reapportioned by the county committee to other farms in the same county in amounts determined by the county committee to be fair and reasonable. Any allotment surrendered under this subparagraph shall he regarded for purposes of this subsection as having been planted on the farm from which it was surrendered.

(f) Excess acreage

Any acreage planted to rice in excess of the farm or producer acreage allotment in the crop years 1976 and 1977 shall not be taken into account in establishing farm, or producer acreage allotments in any year following such period.

(Feb. 16, 1938, ch. 30, title III, § 352, 52 Stat. 60; Aug. 9, 1955, ch. 648, 69 Stat. 576; Feb. 16, 1976, Pub. L. 94-214, title I, § 101, 90 Stat. 181.)

AMENDMENTS

1976—Pub. L. 94-214 substituted subsec. (a) to (f) provisions respecting a national acreage allotment and allocation for 1976 and 1977 crops of rice for prior provisions respecting determination of the national acreage allotment for any calendar year on basis of the national average yield of rice for the five calendar years

immediately preceding the calendar year for which such national average yield is determined and requiring a national acreage allotment for 1956 to be no less than 85 per centum of the final allotment established for the immediately preceding year and the proclamation of the national acreage allotment no later than December 31 of each year.

1955—Act Aug. 9, 1955, provided for a minimum allotment for 1956.

EFFECTIVE DATE OF 1976 AMENDMENT

Section 101 of Pub. L. 94-214 provided in part that amendment by such section 101 be effective for the 1976 and 1977 crops of rice.

CROSS REFERENCES

Delegation of regulatory functions of Secretary of Agriculture, see section 450c et seq. of this title.

§ 1353. Apportionment of national acreage allotment

(a) Apportionment among States

The national acreage allotment of rice for each calendar year, less a reserve of not to exceed 1 per centum thereof for apportionment by the Secretary as provided in this subsection, shall be apportioned by the Secretary among the several States in which rice is produced in proportion to the average number of acres of rice in each State during the five-year period immediately preceding the calendar year for which such national acreage allotment of rice is determined (plus, in applicable years, the acreage diverted under previous agricultural adjustment and conservation programs) with adjustments for trends in acreage during the applicable period. The Secretary shall provide for the apportionment of the reserve acreage set aside pursuant to this subsection to farms receiving allotments which are inadequate because of an insufficient State or county acreage allotment or because rice was not planted on the farm during all of the preceding five years. Notwithstanding the foregoing provisions of this subsection, the reserve acreage set aside for the 1950 crop pursuant to this subsection shall not exceed one-half of 1 per centum and shall be in addition to the 1950 national acreage allotment as heretofore proclaimed by the Secretary and apportioned by him among the several rice-producing States and shall be available for apportionment to new farms without regard to the limitation contained in subsection (b) of this section.

(b) Apportionment among producers

The State acreage allotment shall be apportioned to farms owned or operated by persons who have produced rice in the State in any one of the five calendar years immediately preceding the year for which such apportionment is made on the basis of past production of rice in the State by the producer on the farm taking into consideration the acreage allotments previously established in the State for such owners or operators; abnormal conditions affecting acreage; land, labor, and equipment available for the production of rice; crop rotation practices; and the soil and other physical factors affecting the production of rice: *Provided,* That if the State committee recommends such action and the Secretary determines that such action will facilitate the effective administration of this chapter, he may provide for the apportionment of part or all of the State acreage allotment to farms on which rice has been produced during any one of such period of years on the basis of the foregoing factors, using past production of rice on the farm and the acreage allotments previously established for the farm in lieu of past production of rice by the producer and the acreage allotments previously established for such owners or operators: *Provided further,* That if the Secretary determines that part of the State acreage allotment shall be apportioned on the basis of past production of rice by the producer on the farm and part on the basis of the past production of rice on the farm, he shall divide the State into two administrative areas, to be designated "producer administrative area" and "farm administrative area", respectively, which areas shall be separated by a natural barrier which would prevent each area from being readily accessible to rice producers in one area for producing rice in the other area, and each such area shall be composed of whole counties. Not more than 3 per centum of the State acreage allotment shall be apportioned among farms operated by persons who will produce rice in the State during the calendar year for which the allotment is made but who have not produced rice in the State in any one of the past five years, on the basis of the applicable apportionment factors set forth herein: *Provided,* That in any State in which allotments are established for farms on the basis of past production of rice on the farm such percentage of the State acreage allotment shall be apportioned among the farms on which rice is to be planted during the calendar year for which the apportionment is made but on which rice was not planted during any of the past five years, on the basis of the applicable apportionment factors set forth herein. In determining the eligibility of any producer or farm for an allotment as an old producer or farm under the first sentence of this subsection or as a new producer or farm under the second sentence of this subsection, such producer or farm shall not be considered to have produced rice on any acreage which under subsection (c)(2) of this section is either not to be taken into account in establishing acreage allotments or is not to be credited to such producer. For purposes of this section in States which have been divided into administrative areas pursuant to this subsection the term "State acreage allotment" shall be deemed to mean that part of the State acreage allotment apportioned to each administrative area and the word "State" shall be deemed to mean "administrative area," wherever applicable.

(c) Apportionment among counties

Notwithstanding any other provisions of this chapter—

(1) if farm acreage allotments are established by using past production of rice on the farm and the acreage allotments previously established for the farm in lieu of past production of rice by the producer and the acreage allotments previously established for owners or operators, the State acreage allotment shall be apportioned among counties in the State on the same basis as the national acreage allotment is apportioned among the States and the county acreage allotments shall be apportioned to farms on the basis of

the applicable factors set forth in subsection (b) of this section: *Provided,* That if the State is divided into administrative areas pursuant to subsection (b) of this section the allotment for each administrative area shall be determined by apportioning the State acreage allotment among counties as provided in this subsection and totaling the allotments for the counties in such area: *Provided,* That the State committee may reserve not to exceed 5 per centum of the State allotment, which shall be used to make adjustments in county allotments for trends in acreage and for abnormal conditions affecting plantings;

(2) any acreage planted to rice in excess of the farm acreage allotment shall not be taken into account in establishing State, county, and farm acreage allotments.

In determining the past production of rice by producers on a farm for the purpose of establishing farm acreage allotments for the 1956 and subsequent crops, the acreage of rice on the farm for any year for which farm acreage allotments were in effect shall be divided among the producers thereon in the proportion in which they contributed to the farm acreage allotment.

(3) Each of the State acreage allotments for 1955 heretofore proclaimed by the Secretary shall be increased by 2 per centum or by such greater acreage as may be necessary to provide such State with an allotment equal to its 1950 allotment. In any State having county acreage allotments for 1955 (i) the increase in the State allotment shall be apportioned among counties in the State on the same basis as the State allotment was heretofore apportioned among the counties, but without regard to adjustments for trends in acreage, and (ii) the 1955 allotment for any county in which the 1950–1954 average planted plus diverted acreage of rice, adjusted for trends in acreage, exceeds the 1945–1949 average planted acreage of rice, similarly adjusted, by more than 2 per centum shall then be further increased by such additional acreage as may be necessary to provide such county with an allotment equal to its 1950 allotment. The increases in the county acreage allotments and the increases in the State allotments, where county allotments are not determined, shall be used to establish farm acreage allotments which are fair and reasonable in relation to the applicable allotment factors specified in subsection (b) of this section and to correct inequities and prevent hardships.

(4) The reserve acreage made available for 1955 in any State for apportionment to farms operated by persons who have not produced rice during the preceding five years or on which rice has not been planted in the preceding five years shall not be less than five hundred acres; and the additional acreage necessary to provide such minimum reserve acreages shall be in addition to the National and State acreage allotments.

(5) Each of the State acreage allotments for 1956 heretofore proclaimed by the Secretary, after adding thereto any acreage apportioned to farms in the State from the reserve acreage set aside pursuant to subsection (a) of this section, shall be increased by such amount as may be necessary to provide such State with an allotment of not less than 85 per centum of its final allotment established for 1955. Any additional acreage required to provide such minimum allotment shall be additional to the national acreage allotment. In any State having county acreage allotments for 1956, the increase in the State allotment shall be apportioned among counties in the State on the same basis as the State allotment was heretofore apportioned among the counties, but without regard to adjustments for trends in acreage.

(6) The national acreage allotments of rice for 1957 and subsequent years shall be not less than the national acreage allotment for 1956, including any acreage allotted under paragraph (5) of this subsection, and such national allotments for 1957 and subsequent years shall be apportioned among the States in the same proportion that they shared in the total acreage allotted in 1956.

(d) Acres and farms unaffected

The provisions of this subpart shall not apply to nonirrigated rice produced on any farm on which the acreage planted to nonirrigated rice does not exceed three acres or to rice produced outside the continental United States.

(e) Reapportionment of voluntarily surrendered allotments

Any part of the farm rice acreage allotment on which rice will not be planted and which is voluntarily surrendered to the county committee shall be deducted from the allotment to such farm and may be reapportioned by the county committee to other farms in the same county receiving allotments in amounts determined by the county committee to be fair and reasonable on the basis of the past production of rice by the producers on the farm or the past production of rice on the farm, as the case may be; acreage allotments previously established for the farm or for the producers on the farm, as the case may be; abnormal conditions affecting acreage: land, labor, water, and equipment available for the production of rice; crop-rotation practices; and the soil and other physical factors affecting the production of rice. Any allotment surrendered under this provision shall be regarded for the purposes of subsection (b) of this section as having been planted on the farm from which surrendered, except that this shall not operate to make the farm from which the allotment was surrendered eligible for an allotment as having rice planted thereon, or to make any producer thereon eligible for an allotment as having produced rice, during the five-year base period.

(f) Reapportionment of allotments determined on basis of past production, upon death of producer; withdrawal from production in favor of family; permanent withdrawal; dissolution of partnership producer

(1) If a producer in a State in which farm rice acreage allotments are determined on the basis of past production of rice by the producer on the farm, dies, his history of rice production shall be apportioned in whole or in part among his heirs or devisees according to the extent to which they may continue, or have continued, his farming operations, if satisfactory proof of

such succession of farming operations is furnished the Secretary.

(2) If a producer in a State in which farm rice acreage allotments are determined on the basis of past production of rice by the producer on the farm withdraws in whole or in part from rice production in favor of a member or members of his family who will succeed to his farming operations that portion of his rice history acreage as may be ascribed to such withdrawal may be transferred to such family member or members, as the case may be, if satisfactory proof of such relationship and succession of farming operations by such family member or members is furnished the Secretary.

(3) If a producer in a State in which farm rice acreage allotments are determined on the basis of past production of rice by the producer on the farm permanently withdraws from rice production, his rice history acreage may be transferred to another producer or producers who have had previous rice-producing experience, provided the following conditions are met: (i) The transferee must acquire, except for land, the entire farming operation pertaining to rice, including all production and harvesting equipment, any irrigation equipment not permanently attached to the land; and (ii) the transferee must actually plant at least 90 per centum of his total producer rice acreage allotment, including the allotment determined on the basis of the rice history acreage acquired from the transferor for at least three out of the next four years following the transfer. Failure by the transferee to comply with condition (ii) above shall result in cancellation of the transfer of the rice history acreage. The transferor of rice acreage history under this subsection shall not be eligible for a producer rice acreage allotment for any year subsequent to such transfer, except to the extent that such allotment may be based on rice history acquired in a year (subsequent to the transfer) for which rice acreage allotments are not in effect.

(4) Upon dissolution of a partnership in a State in which farm rice acreage allotments are determined on the basis of past production of rice by the producer on the farm, the partnership's history of rice production shall be divided among the partners in such proportion as agreed upon in writing by the partners: *Provided,* That if a partnership was formed in a year in which allotments were in effect and is dissolved in less than three consecutive crop years after the partnership became effective, the rice acreage allotment established for the partnership and rice history acreages credited to the partnership for each of the years during its existence shall be divided among the partners in the same proportion that each partner contributed to the allotment established for the partnership at the time such partnership was formed. The rice history acreage credited to each of the partners for the years prior to the time the partnership was formed shall revert to the person to whom it was originally credited.

(g) Transfer of allotment due to natural disaster; released acreage for acreage history credits; eligibility of transferring farm for allotment during base year period

Notwithstanding any other provision of this chapter, if the Secretary determines for 1973 that because of a natural disaster a portion of the farm rice acreage allotments in a county cannot be timely planted or replanted in such year, he may authorize for such year the transfer of all or a part of the rice acreage allotment for any farm in the county so affected to another farm in the county or in an adjoining county on which one or more of the producers on the farm from which the transfer is to be made will be engaged in the production of rice and will share in the proceeds thereof, in accordance with such regulations as the Secretary may prescribe. Any farm allotment transferred under this subsection shall be deemed to be released acreage for the purpose of acreage history credits under subsection (e) of this section and section 1377 of this title: *Provided,* That, notwithstanding the provisions of subsection (e) of this section, the transfer of any farm allotment under this subsection shall operate to make the farm from which the allotment was transferred eligible for an allotment as having rice planted thereon during the five-year base period.

(Feb. 16, 1938, ch. 30, title III, § 353, 52 Stat. 61; Oct. 31, 1949, ch. 792, title IV, § 418(a), 63 Stat. 1059; June 16, 1950, ch. 268, §§ 1, 2, 64 Stat. 232; Apr. 30, 1955, ch. 29, 69 Stat. 45; Apr. 30, 1955, ch. 30, 69 Stat. 45; May 5, 1955, ch. 31, 69 Stat. 46; Aug. 9, 1955, ch. 652, 69 Stat. 578; May 28, 1956, ch. 327, title III, § 304, 70 Stat. 205; June 4, 1958, Pub. L. 85-443, §§ 1, 2(a), (b), 3, 72 Stat. 177; Aug. 28, 1958, Pub. L. 85-835, title III, § 301, 72 Stat. 994; Feb. 16, 1938, ch. 30, title III, § 378(d), as added Aug. 28, 1958, Pub. L. 85-835, title V, § 501, 72 Stat. 996; Mar. 6, 1962, Pub. L. 87-412, 76 Stat. 20; Jan. 28, 1964, Pub. L. 88-261, 78 Stat. 6; Nov. 3, 1965, Pub. L. 89-321, title VIII, § 801, 79 Stat. 1212; Oct. 11, 1968, Pub. L. 90-559, § 1(8), 82 Stat. 996; Apr. 27, 1973, Pub.L. 93-27, 87 Stat. 27.)

CODIFICATION

Subsec. (c)(7), authorizing the Secretary to formulate a rice acreage diversion program for 1966, 1967, 1968, 1969, or 1970 if the national rice acreage allotment for such years was less than for 1965 and to make payments to producers who complied with their rice acreage allotments, who devoted a certain acreage to conservation uses, and who complied with such additional terms as the Secretary prescribed, specifying the method of computing the diversion factor, permitting use of the diverted acreage for certain crops, limiting advance payments to fifty per cent, and authorizing the Commodity Credit Corporation to use its capital funds and other assets to make payments, was omitted as executed.

AMENDMENTS

1973—Subsec. (g). Pub. L. 93-27 added subsec. (g).

1968—Subsec. (c)(7). Pub. L. 90-559 provided for national acreage allotment for rice for 1970.

1965—Subsec. (c). Pub. L. 89-321 added par. (7).

1964—Subsec. (f)(3)(i). Pub. L. 88-261 inserted ", except for land," following "acquire" and deleted ", and any land owned by the transferor to which any of the transferred rice history acreage may be ascribed" following "attached to the land".

1962—Subsec. (f). Pub. L. 87-412 added subsec. (f). A prior subsec. (f) was repealed by act Feb. 16, 1938, ch. 30, title III, § 378(d), as added Aug. 28, 1958, Pub. L. 85-835, title V, § 501, 72 Stat. 996.

1958—Subsec. (b). Pub. L. 85-443, §§ 1, 2(a), restricted apportionment of acreage allotment to farms owned or operated by persons who have produced rice in the

State, limited the apportionment to new producers to those who will produce rice in the State but who have not produced rice in the State in any one of the prior five years, provided that in determining the eligibility for an allotment as an old producer or farm or as a new producer or farm, the producer or farm should not be considered to have produced rice on any acreage which under subsec. (c)(2) is either not to be taken into account in establishing allotments or is not to be credited to such producer, permitted the Secretary to divide the State into two administrative areas, and defined "State acreage allotment" and "State".

Subsec. (c)(1). Pub. L. 85-443, § 2(b), prescribed the method for determining the allotment for each administrative area where a State is divided into administrative areas pursuant to subsec. (b) of this section.

Subsec. (c)(6). Pub. L. 85-835 substituted "1957 and subsequent years" for "1957 and 1958" wherever occurring.

Subsec. (f). Act Feb. 16, 1938, § 378(d), as added by Pub. L. 85-835, § 501, repealed provisions of subsec. (f), which had been added earlier in 1958 by Pub. L. 85-443, § 3, and related to allotment pool for acreage allotments on lands acquired by eminent domain, and are now covered by section 1378(a) of this title.

1956—Subsecs. (c)(5), (6). Act May 28, 1956, added subsecs. (5) and (6).

1955—Subsec. (b). Act Aug. 9, 1955, inserted the words "in the State" in two instances.

Subsec. (c)(2). Act Apr. 30, 1955, ch. 30, added last par. after par. (2), to permit determination of past production of rice on the basis of the acreage allotment contributed, rather than on that of the share in the crop.

Subsecs. (c)(3), (4). Act May 5, 1955, added subsecs. (3) and (4).

Subsec. (e). Act Apr. 30, 1955, ch. 29, added subsec. (e).

1950—Subsec. (a). Act June 16, 1950, § 1, established a national acreage reserve for 1950 of not more than one-half of 1 percent of the national rice acreage allotment and a reserve of not more than 1 percent of the national acreage allotment in subsequent years.

Subsec. (d). Act June 16, 1950, § 2, added subsec. (d).

1949—Act Oct. 31, 1949, reenacted subsec. (a) without change, changed methods of apportionment among producers in subsec. (b), and added subsec. (c).

EFFECTIVE DATE OF 1958 AMENDMENT

Section 1 of Pub. L. 85-443 provided in part that the amendment to subsec. (b) of this section restricting apportionment of acreage allotment to farms owned or operated by persons who have produced rice in the State, limiting the apportionment to new producers to those who will produce rice in the State but who have not produced rice in the State in any one of the prior five years, and providing that in determining the eligibility for an allotment as an old producer or farm or as a new producer or farm, the producer or farm should not be considered to have produced rice on any acreage which under subsec. (c)(2) is either not to be taken into account in establishing allotments or is not to be credited to such producer, shall be applicable to the planting of rice in 1958 and subsequent years.

Subsec. 2(c) of Pub. L. 85-443 provided that: "This section [amending subsec. (b) to permit the Secretary to divide the State into two administrative areas, and amending subsec. (c)(1) of this section] shall become effective for the 1958 and subsequent crops of rice: *Provided,* That if any State is divided into administrative areas for 1958 pursuant to section 353(b) of the Act, as amended [subsec. (b) of this section], acreage allotments heretofore established for farms in such areas shall be redetermined to the extent required as a result of such division: *Provided further,* That the allotment heretofore established for any farm shall not be reduced as a result of such redetermination. The additional acreage, if any, required to provide such minimum allotments shall be in addition to the 1958 National and State acreage allotments."

EFFECTIVE DATE OF 1955 AMENDMENT

Act Apr. 30, 1955, ch. 29, provided in part that the amendment adding subsec. (e) shall be effective beginning with the 1955 crop of rice.

SAVINGS CLAUSE

Transfer or reassignment of allotment as remaining in effect and ineligibility of displaced farm owner for additional allotment notwithstanding repeal of subsec. (f), see note under section 1378 of this title.

INAPPLICABILITY TO 1976 AND 1977 CROPS OF RICE

Pub. L. 94-214, title I, § 103, Feb. 16, 1976, 90 Stat. 186 provided that: "Sections 353, 354, 355, and 356 of the Agricultural Adjustment Act of 1938 [this section and sections 1354, 1355, and 1356 of this title] shall not be applicable to the 1976 and 1977 crops of rice."

VALIDATION OF ALLOTMENTS FOR 1962 AND PRIOR CROP YEARS

Pub. L. 88-160, Oct. 28, 1963, 77 Stat. 279, provided: "That in a State in which farm rice acreage allotments are determined on the basis of past production of rice by the producer on the farm, any producer rice acreage allotment found by the ASC county committee or the ASC State committee to have been properly apportioned from the State rice acreage allotment and the acreage allotment for any farm to which such producer allotment has been allocated and approved by the county committee in good faith for any crop year 1956 to 1962, both inclusive, shall be deemed to have been validly established and shall remain in effect, and the farm marketing quota and farm marketing excess, if any, shall be determined on the basis of such valid farm rice acreage allotment.

"This resolution shall not apply to any producer rice allotment or any planted rice acreage that has been obtained by duplication, forgery, bribery, intimidation, or practices that would result in the total allotted acreage in the State exceeding the State acreage allotment, less any unallocated reserve acreage."

CROSS REFERENCES

Delegation of regulatory functions of Secretary of Agriculture, see section 450c et seq. of this title.

§ 1354. Marketing quotas

(a) Proclamation

Whenever in any calendar year the Secretary determines that the total supply of rice for the marketing year beginning in such calendar year will exceed the normal supply for such marketing year, the Secretary shall, not later than December 31 of such calendar year, proclaim such fact and marketing quotas shall be in effect for the crop of rice produced in the next calendar year.

(b) Referendum

Within thirty days after the date of the issuance of the proclamation specified in subsection (a) of this section, the Secretary shall conduct a referendum by secret ballot of farmers engaged in the production of the immediately preceding crop of rice to determine whether such farmers are in favor of or opposed to such quotas. If more than one-third of the farmers voting in the referendum oppose such quotas the Secretary shall, prior to the 15th day of February, proclaim the result of the referendum and such quotas shall become ineffective.

(Feb. 16, 1938, ch. 30, title III, § 354, 52 Stat. 61; Oct. 31, 1949, ch. 792, title IV, § 418(a), 63 Stat. 1059; Apr. 4, 1960, Pub. L. 86-408, 74 Stat. 15.)

AMENDMENTS

1960—Subsec. (a). Pub. L. 86-408 eliminated words "by more than 10 per centum" which followed "exceed the normal supply for such marketing year".

1949—Act Oct. 31, 1949, amended section generally by omitting provisions relating to ascertainment and apportionment of the domestic allotment of rice.

INAPPLICABILITY TO 1976 AND 1977 CROPS OF RICE

Provisions of this section inapplicable to the 1976 and 1977 crops of rice, see section 103 of Pub. L. 94-214, title I, Feb. 16, 1976, 90 Stat. 186, set out as a note under section 1353 of this title.

CROSS REFERENCES

Delegation of regulatory functions of Secretary of Agriculture, see section 450c et seq. of this title.

§ 1355. Amount of farm marketing quota

The farm marketing quota for any crop of rice shall be the actual production of rice on the farm less the normal production of the acreage planted to rice on the farm in excess of the farm acreage allotment. The normal production from such excess acreage shall be known as the "farm marketing excess": *Provided,* That the farm marketing excess shall not be larger than the amount by which the actual production of rice on the farm exceeds the normal production of the farm acreage allotment if the producer establishes such actual production to the satisfaction of the Secretary.

(Feb. 16, 1938, ch. 30, title III, § 355, 52 Stat. 62; July 3, 1948, ch. 827, title II, § 206, 62 Stat. 1256; Oct. 31, 1949, ch. 792, title IV, §§ 415(e), 418(a), 63 Stat. 1059.)

AMENDMENTS

1949—Act Oct. 31, 1949, § 418(a), omitted former subsecs. (a) and (b), relating to proclamation of marketing quotas and referendum regarding such quotas, which are now covered by section 1354 of this title, omitted former subsecs. (c) and (d), relating to apportionment and transfer of marketing quotas, and provided for the amount of farm marketing quota.

Subsec. (a). Act Oct. 31, 1949, § 415(e), repealed amendatory provisions of act July 3, 1948, ch. 827, title II, § 206, 62 Stat. 1256.

1948—Subsec. (a). Act July 3, 1948, changed the conditions which must be determined by the Secretary to exist before marketing quotas can be imposed.

EFFECTIVE DATE OF 1948 AMENDMENT

Amendment by act July 3, 1948, effective Jan. 1, 1950, see section 303 of act July 3, 1948, set out as a note under section 1301 of this title.

INAPPLICABILITY TO 1976 AND 1977 CROPS OF RICE

Provisions of this section inapplicable to the 1976 and 1977 crops of rice, see section 103 of Pub. L. 94-214, title I, Feb. 16, 1976, 90 Stat. 186, set out as a note under section 1353 of this title.

CROSS REFERENCES

Agreement for adjustment of acreage or production of basic agricultural commodities, see section 608 et seq. of this title.

Delegation of regulatory functions of Secretary of Agriculture, see section 450c et seq. of this title.

Referendum on orders regulating handling of commodities, see section 608c of this title.

Sugar quotas, see section 1111 et seq. of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1356 of this title.

§ 1356. Penalties and storage

(a) Rate of penalty on farm marketing excess

Whenever farm marketing quotas are in effect with respect to any crop of rice, the producer shall be subject to a penalty on the farm marketing excess at a rate per pound equal to 50 per centum of the parity price per pound for rice as of June 15 of the calendar year in which such crop is produced. Effective beginning with the 1958 crop, the rate of penalty on rice shall be 65 per centum of the parity price per pound for rice as of June 15 of the calendar year in which the crop is produced.

(b) Computation and adjustment of penalty

The farm marketing excess of rice shall be regarded as available for marketing and the amount of penalty shall be computed upon the normal production of the acreage on the farm planted to rice in excess of the farm acreage allotment. If a downward adjustment in the amount of the farm marketing excess is made pursuant to the proviso in section 1355 of this title, the difference between the amount of the penalty computed upon the farm marketing excess before such adjustment and as computed upon the adjusted marketing excess shall be returned to or allowed the producer.

(c) Interest liability

The person liable for payment or collection of the penalty shall be liable also for interest thereon at the rate of 6 per centum per annum from the date the penalty becomes due until the date of payment of such penalty.

(d) Lien on crop

Until the penalty on the farm marketing excess is paid, postponed, or avoided, as provided herein, all rice produced on the farm and marketed by the producer shall be subject to the penalty provided by this section and a lien on the entire crop of rice produced on the farm shall be in effect in favor of the United States.

(e) Avoidance or postponement of penalty by storage or other disposition

The penalty on the farm marketing excess on any crop of rice may be avoided or postponed by storage or by disposing of the commodity in such other manner, not inconsistent with the purposes of this chapter, as the Secretary shall prescribe, including in the discretion of the Secretary, delivery to Commodity Credit Corporation or any other agency within the Department. The Secretary shall issue regulations governing such storage or other disposition. Unless otherwise specified by the Secretary in such regulations, any quantity of rice so stored or otherwise disposed of shall be of those types and grades which are representative of the entire quantity of rice produced on the farm. Upon failure so to store or otherwise dispose of the farm marketing excess of rice within such time as may be determined under regulations prescribed by the Secretary, the penalty on such excess shall become due and payable. Any rice delivered to any agency of the Department pursuant to this subsection shall become the property of the agency to which delivered and shall be disposed of at the direction of the Secretary in a manner not inconsistent with the purposes of this chapter. If the farm marketing excess of rice determined for any farm is deliv-

ered to Commodity Credit Corporation or any other agency within the Department, in accordance with regulations prescribed by the Secretary, such farm shall be considered to be in compliance with the rice acreage allotment for such year.

(f) Penalty for depletion in amount stored

Subject to the provisions of subsection (g) of this section, the penalty upon the farm marketing excess stored pursuant to this section shall be paid by the producer at the time and to the extent of any depletion in the amount so stored except depletion resulting from some cause beyond the control of the producer or from substitution of the commodity authorized by the Secretary.

(g) Reduction allowances on stored crops

(1) If the planted acreage of the then current crop of rice for any farm is less than the farm acreage allotment, the amount of the commodity from any previous crop of rice stored to postpone or avoid payment of the penalty shall be reduced by an amount equal to the normal production of the number of acres by which the farm acreage allotment exceeds the acreage planted to rice.

(2) If the actual production of the acreage of rice on any farm on which the acreage of rice is within the farm acreage allotment is less than the normal production of the farm acreage allotment, the amount of rice from any previous crop stored to postpone or avoid payment of the penalty shall be reduced by an amount which, together with the actual production of the then current crop will equal the normal production of the farm acreage allotment: *Provided,* That the reduction under this paragraph shall not exceed the amount by which the normal production of the farm acreage allotment less any reduction made under paragraph (1) of this subsection is in excess of the actual production of the acreage planted to rice on the farm.

(h) Termination of marketing quotas applicable to previous crops

Whenever, in any marketing year, marketing quotas are not in effect with respect to the crop of rice produced in the calendar year in which such marketing year begins, all marketing quotas applicable to previous crops of rice shall be terminated, effective as of the first day of such marketing year. Such termination shall not abate any penalty previously incurred by a producer or relieve any buyer of the duty to remit penalties previously collected by him.

(Feb. 16, 1938, ch. 30, title III, § 356, 52 Stat. 62; Oct. 31, 1949, ch. 792, title IV, § 418(a), 63 Stat. 1059; June 4, 1958, Pub. L. 85-443, § 4, 72 Stat. 178; Dec. 14, 1967, Pub. L. 90-191, 81 Stat. 578.)

AMENDMENTS

1967—Subsec. (e). Pub. L. 90-191 provided that a farm be considered to be in compliance with the rice acreage allotment for such year if the farm marketing excess of rice determined for such farm is delivered to Commodity Credit Corporation or any other agency within the Department, in accordance with regulations prescribed by the Secretary.

1958—Subsec. (a). Pub. L. 85-443, § 4(1), provided that beginning with the 1958 crop, the rate of penalty should be 65 per centum of the parity price per pound for rice as of June 15 of the calendar year in which the crop is produced.

Subsec. (h). Pub. L. 85-443, § 4(2), added subsec. (h).

1949—Act Oct. 31, 1949, designated existing provisions as subsec. (a), changed rate of penalty from one-quarter of 1 cent per pound of the excess to 50 per centum of the parity price per pound, and added subsecs. (b) to (g).

INAPPLICABILITY TO 1976 AND 1977 CROPS OF RICE

Provisions of this section inapplicable to the 1976 and 1977 crops of rice, see section 103 of Pub. L. 94-214, title I, Feb. 16, 1976, 90 Stat. 186, set out as a note under section 1353 of this title.

CROSS REFERENCES

Rate of marketing penalty for rice, see sections 1330 and 1340 of this title.

SUBPART VI—MARKETING QUOTAS—PEANUTS

§ 1357. Legislative findings

The production, marketing, and processing of peanuts and peanut products employs a large number of persons and is of national interest. The movement of peanuts from producer to consumer is preponderantly in interstate and foreign commerce, and, owing to causes beyond their control, the farmers producing such commodity and the persons engaged in the marketing and processing thereof are unable to regulate effectively the orderly marketing of the commodity. As the quantity of peanuts marketed in the channels of interstate and foreign commerce increases above the quantity of peanuts needed for cleaning and shelling, the prices at which all peanuts are marketed are depressed to low levels. These low prices tend to cause the quantity of peanuts available for marketing in later years to be less than normal, which in turn tends to cause relatively high prices. This fluctuation of prices and marketings of peanuts creates an unstable and chaotic condition in the marketing of peanuts for cleaning and shelling and for crushing for oil in the channels of interstate and foreign commerce. Since these unstable and chaotic conditions have existed for a period of years and are likely, without proper regulation, to continue to exist, it is imperative that the marketing of peanuts for cleaning and shelling and for crushing for oil in interstate and foreign commerce be regulated in order to protect producers, handlers, processors, and consumers.

(Feb. 16, 1938, ch. 30, title III, § 357, as added Apr. 3, 1941, ch. 39, § 1, 55 Stat. 88.)

MARKETING QUOTAS AND ACREAGE ALLOTMENTS FOR 1947

Joint Res. July 24, 1946, ch. 617, 60 Stat. 668, suspended marketing quotas and acreage allotments for 1947 in view of the critical shortage of high protein foods and feeds, and fats and oil.

§ 1358. National marketing quota

(a) Proclamation; amount

Between July 1 and December 1 of each calendar year the Secretary shall proclaim the amount of the national marketing quota for peanuts for the crop produced in the next succeeding calendar year in terms of the total quantity of peanuts which will make available for marketing a supply of peanuts from the crop with respect to which the quota is pro-

claimed equal to the average quantity of peanuts harvested for nuts during the five years immediately preceding the year in which such quota is proclaimed, adjusted for current trends and prospective demand conditions, and the quota so proclaimed shall be in effect with respect to such crop. The national marketing quota for peanuts for any year shall be converted to a national acreage allotment by dividing such quota by the normal yield per acre of peanuts for the United States determined by the Secretary on the basis of the acreage yield per acre of peanuts in the five years preceding the year in which the quota is proclaimed, with such adjustments as may be found necessary to correct for trends in yields and for abnormal conditions of production affecting yields in such five years: *Provided,* That the national marketing quota established for the crop produced in the calendar year 1941 shall be a quantity of peanuts sufficient to provide a national acreage allotment of not less than one million six hundred and ten thousand acres, and that the national marketing quota established for any subsequent year shall be quantity of peanuts sufficient to provide a national acreage allotment of not less than that established for the crop produced in the calendar year 1941.

(b) Referendum

Not later than December 15 of each calendar year the Secretary shall conduct a referendum of farmers engaged in the production of peanuts in the calendar year in which the referendum is held to determine whether such farmers are in favor of or opposed to marketing quotas with respect to the crops of peanuts produced in the three calendar years immediately following the year in which the referendum is held, except that, if as many as two-thirds of the farmers voting in any referendum vote in favor of marketing quotas, no referendum shall be held with respect to quotas for the second and third years of the period. The Secretary shall proclaim the results of the referendum within thirty days after the date on which it is held, and, if more than one-third of the farmers voting in the referendum vote against marketing quotas, the Secretary also shall proclaim that marketing quotas will not be in effect with respect to the crop of peanuts produced in the calendar year immediately following the calendar year in which the referendum is held. Notwithstanding any other provisions of this section, the Secretary shall proclaim a national marketing quota with respect to the crop of peanuts produced in the calendar year 1941 equal to the minimum quota provided for said year in subsection (a) of this section and shall provide for the holding of a referendum on such quota within thirty days after April 3, 1941, and the State and farm acreage allotments established under the 1941 agricultural conservation program shall be the State and farm acreage allotments for the 1941 crop of peanuts.

(c) Apportionment of national acreage allotment

(1) The national acreage allotment for 1951, less the acreage to be allotted to new farms under subsection (f) of this section, shall be apportioned among the States on the basis of the larger of the following for each State: (a) The acreage allotted to the State as its share of the 1950 national acreage allotment of two million one hundred thousand acres, or (b) the State's share of two million one hundred thousand acres apportioned to States on the basis of the average acreage harvested for nuts in each State in the five years 1945–1949: *Provided,* That any allotment so determined for any State which is less than the 1951 State allotment announced by the Secretary prior to the enactment of this chapter shall be increased to such announced allotment and the acreage required for such increases shall be in addition to the 1951 national acreage allotment and shall be considered in determining State acreage allotments in future years. For any year subsequent to 1951, the national acreage allotment for that year shall be apportioned among the States on the basis of their share of the national acreage allotment for the most recent year in which such apportionment was made.

(2) Notwithstanding any other provision of law, if the Secretary of Agriculture determines, on the basis of the average yield per acre of peanuts by types during the preceding five years, adjusted for trends in yields and abnormal conditions of production affecting yields in such five years, that the supply of any type or types of peanuts for any marketing year, beginning with the 1951–1952 marketing year, will be insufficient to meet the estimated demand for cleaning and shelling purposes at prices at which the Commodity Credit Corporation may sell for such purposes peanuts owned or controlled by it, the State allotments for those States producing such type or types of peanuts shall be increased to the extent determined by the Secretary to be required to meet such demand but the allotment for any State may not be increased under this provision above the 1947 harvested acreage of peanuts for such State. The total increase so determined shall be apportioned among such States for distribution among farms producing peanuts of such type or types on the basis of the average acreage of peanuts of such type or types in the three years immediately preceding the year for which the allotments are being determined. The additional acreage so required shall be in addition to the national acreage allotment, the production from such acreage shall be in addition to the national marketing quota, and the increase in acreage allotted under this provision shall not be considered in establishing future State, county, or farm acreage allotments.

(d) Farm acreage allotments

The Secretary shall provide for the apportionment of the State acreage allotment for any State, less the acreage to be allotted to new farms under subsection (f) of this section, through local committees among farms on which peanuts were grown in any of the three years immediately preceding the year for which such allotment is determined. The State acreage allotment for 1952 and any subsequent year shall be apportioned among farms on which peanuts were produced in any one of the three calendar years immediately preceding the year for which such apportionment is made, on the basis of the following: Past acreage of peanuts, taking into consideration the acreage allotments previously established for the farm; ab-

normal conditions affecting acreage; land, labor, and equipment available for the production of peanuts; crop-rotation practices; and soil and other physical factors affecting the production of peanuts. Any acreage of peanuts harvested in excess of the allotted acreage for any farm for any year shall not be considered in the establishment of the allotment for the farm in succeeding years. The amount of the marketing quota for each farm shall be the actual production of the farm-acreage allotment, and no peanuts shall be marketed under the quota for any farm other than peanuts actually produced on the farm.

(e) County acreage allotments

Notwithstanding the foregoing provisions of this section, the Secretary may, if the State committee recommends such action and the Secretary determines that such action will facilitate the effective administration of the provisions of this chapter, provide for the apportionment of the State acreage allotment for 1952 and any subsequent year among the counties in the State on the basis of the past acreage of peanuts harvested for nuts (excluding acreage in excess of farm allotments) in the county during the five years immediately preceding the year in which such apportionment is made, with such adjustments as are deemed necessary for abnormal conditions affecting acreage, for trends in acreage, and for additional allotments for types of peanuts in short supply under the provisions of subsection (c) of this section. The county acreage allotment shall be apportioned among farms on the basis of the factors set forth in subsection (d) of this section.

(f) New farm allotments

Not more than 1 per centum of the State acreage allotment shall be apportioned among farms in the State on which peanuts are to be produced during the calendar year for which the allotment is made but on which peanuts were not produced during any one of the past three years, on the basis of the following: Past peanut-producing experience by the producers; land, labor, and equipment available for the production of peanuts; crop-rotation practices; and soil and other physical factors affecting the production of peanuts.

(g) Release and reapportionment of farm-acreage allotments

Any part of the acreage allotted to individual farms under the provisions of this section on which peanuts will not be produced and which is voluntarily surrendered to the county committee shall be deducted from the allotments to such farms and may be reapportioned by the county committee to other farms in the same county receiving allotments, in amounts determined by the county committee to be fair and reasonable on the basis of land, labor, and equipment available for the production of peanuts, crop-rotation practices, and soil and other physical factors affecting the production of peanuts. Any transfer of allotments under this provision shall not operate to reduce the allotment for any subsequent year for the farm from which acreage is transferred, except as the farm becomes ineligible for an allotment by failure to produce peanuts during a three-year period, and any such transfer shall not operate to increase the allotment for any subsequent year for the farm to which the acreage is transferred: *Provided,* That, notwithstanding any other provisions of this chapter, any part of any farm acreage allotment may be permanently released in writing to the county committee by the owner and operator of the farm, and reapportioned as provided herein.

(h) Repealed. Feb. 16, 1938, ch. 30, title III, § 378(d), as added Pub. L. 85–835, title V, § 501, Aug. 28, 1958, 72 Stat. 996

(i) Production on farms with no allotments

The production of peanuts on a farm in 1959 or any subsequent year for which no farm acreage allotment was established shall not make the farm eligible for an allotment as an old farm under subsection (d) of this section: *Provided, however,* That by reason of such production the farm need not be considered as ineligible for a new farm allotment under subsection (f) of this section, but such production shall not be deemed past experience in the production of peanuts for any producer on the farm.

(j) Transfer of acreage allotment

Notwithstanding any other provision of this chapter, if the Secretary determines for 1976 or a subsequent year that because of a natural disaster a portion of the farm peanut acreage allotments in a county cannot be timely planted or replanted in such year, he may authorize for such year the transfer of all or a part of the peanut acreage allotments for any farm in the county so affected to another farm in the county or in an adjoining county in the same or an adjoining State on which one or more of the producers on the farm from which the transfer is to be made will be engaged in the production of peanuts and will share in the proceeds thereof, in accordance with such regulations as the Secretary may prescribe. Any farm allotment transferred under this subsection shall be deemed to be released acreage for the purpose of acreage history credits under subsection (g) of this section and section 1377 of this title: *Provided,* That notwithstanding the provisions of subsection (g) of this section, the transfer of any farm allotment under this subsection shall operate to make the farm from which the allotment was transferred eligible for an allotment as having peanuts planted thereon during the three-year base period.

(Feb. 16, 1938, ch. 30, title III, § 358, as added Apr. 3, 1941, ch. 39, § 1, 55 Stat. 88, and amended July 9, 1942, ch. 497, § 1(1), 56 Stat. 653; July 26, 1946, ch. 677, 60 Stat. 705; Aug. 1, 1947, ch. 445, § 1, 61 Stat. 721; Aug. 29, 1949, ch. 518, § 4, 63 Stat. 676; Mar. 31, 1950, ch. 81, § 6(b), 64 Stat. 43; Apr. 12, 1951, ch. 28, § 1, 65 Stat. 29; Aug. 21, 1958, Pub. L. 85-717, § 1, 72 Stat. 709; Feb. 16, 1938, ch. 30, title III, § 378(d), as added Aug. 28, 1958, Pub. L. 85-835, title V, § 501, 72 Stat. 996; Aug. 3, 1971, Pub. L. 92-62, §§ 1-3, 85 Stat. 163, 164; Mar. 25, 1976, Pub. L. 94-247, 90 Stat. 285.)

AMENDMENTS

1976—Subsec. (j). Pub. L. 94-247 added subsec.(j).

1971—Subsec. (c)(1). Pub. L. 92-62, § 1, struck out ", less the acreage to be allotted to new farms under subsection (f) of this section," following "For any year

subsequent to 1951, the national acreage allotment for that year".

Subsec. (d). Pub. L. 92-62, § 2, inserted in first sentence "the" preceding "apportionment" and ", less the acreage to be allotted to new farms under subsection (f) of this section,".

Subsec. (f). Pub. L. 92-62, § 3, substituted "1 per centum of the State acreage allotment shall be apportioned among farms in the State" for "one per centum of the national acreage allotment shall be apportioned among farms".

1958—Subsec. (h). Act Feb. 16, 1938, § 378(d), as added by Pub. L. 85-835, repealed subsec. (h), which related to allotments for displaced farm owners, and is covered by section 1378(a), (b), of this title.

Subsec. (i). Pub. L. 85-717 added subsec. (i).

1951—Subsec. (c). Act Apr. 12, 1951, provided for the allocation of the 1951 national acreage allotment among the States.

Subsec. (d). Act Apr. 12, 1951, provided that the State acreage allotment for 1952 and subsequent years shall be apportioned among old peanut farms on the basis of the past acreage of peanuts.

Subsecs. (e) to (h). Act Apr. 12, 1951, added subsecs. (e) to (h).

1950—Subsec. (d). Act Mar. 31, 1950, provided that any acreage of peanuts harvested in excess of the allotted acreage for any farm for any year shall not be considered in the establishment of the allotment for the farm in succeeding years.

1949—Subsec. (c). Act Aug. 29, 1949, provided that the acreage allotment for any State after 1949 shall not be less than 60 percent of the acreage of peanuts harvested for nuts in the State in 1948.

1947—Subsec. (d). Act Aug. 1, 1947, substituted present last sentence for former last sentence which, as substituted by act July 9, 1942 provided that the amount of marketing quota for each farm should be a number of pounds of peanuts equal to the normal or actual production, which ever was greater, of the farm peanut acreage allotment.

1946—Subsec. (a). Act July 26, 1946, struck out proviso "95 per centum of" in order to give States an allotment at least equal to 100 percent of the acreage in said State during 1941.

Subsec. (c). Act July 26, 1946, struck out of first proviso "95 per centum of" and added immediately preceding colon "and any additional acreage so required shall be in addition to the national allotment and the production from such acreage shall be in addition to the national marketing quota" in order to give States an allotment at least equal to 100 percent of the acreage in said State during 1941, and to protect other States against any loss of acreage by reason of this change.

1942—Subsec. (d). Act July 9, 1942, substituted last sentence for former last sentence.

SAVINGS CLAUSE

Transfer or reassignment of allotment as remaining in effect and ineligibility of displaced farm owner for additional allotment notwithstanding repeal of subsec. (h), see note under section 1378 of this title.

TRANSFER OF FUNCTIONS

All functions of all officers, agencies and employees of the Department of Agriculture were transferred, with certain exceptions, to the Secretary of Agriculture by 1953 Reorg. Plan No. 2, § 1, eff. June 4, 1953, 18 F.R. 3219, 67 Stat. 633, set out as a note under section 2201 of this title.

EXCEPTIONS FROM TRANSFER OF FUNCTIONS

Functions of the Corporations of the Department of Agriculture, the boards of directors and officers of such corporations; the Advisory Board of the Commodity Credit Corporation; and the Farm Credit Administration or any agency, officer or entity of, under, or subject to the supervision of the said Administration were excepted from the functions of officers, agencies and employees transferred to the Secretary of Agriculture by 1953 Reorg. Plan No. 2, § 1.

PEANUT ACREAGE ALLOTMENT FOR 1950

Section 7 of act Mar. 31, 1950 prohibited reduction of the peanut acreage allotment for any State by a percentage larger than the percentage by which the 1950 national acreage allotment is below the 1949 national acreage allotment and directed that the allotment for any State shall be increased to the extent required to provide such minimum State allotment and such acreage required shall be in addition to the national acreage allotment.

EMERGENCY FARM ACREAGE ALLOTMENT

Act Feb. 28, 1945, ch. 15, 59 Stat. 9, provided for farm acreage allotment during national emergency proclaimed by the President on Sept. 8, 1939 and May 27, 1941. Such emergencies terminated on July 25, 1947 by the provisions of Joint Res. July 25, 1947, ch. 327, § 3, 61 Stat. 451.

§ 1358a. Transfer of peanut acreage allotments

(a) Determination by Secretary

Notwithstanding any other provision of law for the 1968 and succeeding crop years, the Secretary, if he determines that it will not impair the effective operation of the peanut marketing quota or price-support program, (1) may permit the owner and operator of any farm for which a peanut acreage allotment is established under this chapter to sell or lease all or any part or the right to all or any part of such allotment to any other owner or operator of a farm in the same county for transfer to such farm; and (2) may permit the owner of a farm to transfer all or any part of such allotment to any other farm owned or controlled by him.

(b) Conditions upon transfer; adjustment of allotment

Transfers under this section shall be subject to the following conditions: (1) no allotment shall be transferred to a farm in another county; (2) no transfer of an allotment from a farm subject to a mortgage or other lien shall be permitted unless the transfer is agreed to by the lienholders; (3) no sale of a farm allotment from a farm shall be permitted if any sale of allotment to the same farm has been made within the three immediately preceding crop years; (4) no transfer of allotment shall be effective until a record thereof is filed with the county committee of the county in which such transfer is made and such committee determines that the transfer complies with the provisions of this section; and (5) if the normal yield established by the county committee for the farm to which the allotment is transferred does not exceed the normal yield established by the county committee for the farm from which the allotment is transferred by more than 10 per centum, the lease or sale and transfer shall be approved acre for acre, but if the normal yield for the farm to which the allotment is transferred exceeds the normal yield for the farm from which the allotment is transferred by more than 10 per centum, the county committee shall make a downward adjustment in the amount of the acreage allotment transferred by multiplying the normal yield established for the farm from which the allotment is transferred by the acreage being transferred and dividing the result by the normal yield established for the farm to which the allotment

is transferred: *Provided,* That in the event an allotment is transferred to a farm which at the time of such transfer is not irrigated, but within five years subsequent to such transfer is placed under irrigation, the Secretary shall also make an annual downward adjustment in the allotment so transferred by multiplying the normal yield established for the farm from which the allotment is transferred by the acreage being transferred and dividing the result by the actual yield for the previous year, adjusted for abnormal weather conditions, on the farm to which the allotment is transferred: *Provided further,* That, notwithstanding any other provision of this chapter, the adjustment made in any peanut allotment because of the transfer to a higher producing farm shall not reduce or increase the size of any future National or State allotment and an acreage equal to the total of all such adjustments shall not be allotted to any other farms.

(c) Transfer of acreage history and marketing quota; transfer by lease

The transfer of an allotment shall have the effect of transferring also the acreage history and marketing quota attributable to such allotment and if the transfer is made prior to the determination of the allotment for any year the transfer shall include the right of the owner or operator to have an allotment determined for the farm for such year: *Provided,* That in the case of a transfer by lease the amount of the allotment shall be considered, for the purpose of determining allotments after the expiration of the lease, to have been planted on the farm from which such allotment is transferred.

(d) Eligibility of transferred land for new allotment

The land in the farm from which the entire peanut allotment has been transferred shall not be eligible for a new farm peanut allotment during the five years following the year in which such transfer is made.

(e) Duration of lease; terms and conditions

Any lease may be made for such term of years not to exceed five as the parties thereto agree, and on such other terms and conditions except as otherwise provided in this section as the parties thereto agree.

(f) Lease of part of acreage allotment; determination of future allotments; eligibility for referendum

The lease of any part of a peanut acreage allotment determined for a farm shall not affect the allotment for the farm from which such allotment is transferred or the farm to which it is transferred, except with respect to the crop year or years specified in the lease. The amount of the acreage allotment which is leased from a farm shall be considered for purposes of determining future allotments to have been planted to peanuts on the farm from which such allotment is leased and the production pursuant to the lease shall not be taken into account in establishing allotments for subsequent years for the farm to which such allotment is leased. The lessor shall be considered to have been engaged in the production of peanuts for purposes of eligibility to vote in the referendum.

(g) Regulations; limitations on transfers

The Secretary shall prescribe regulations for the administration of this section which may include reasonable limitation on the size of the resulting allotments on farms to which transfers are made and such other terms and conditions as he deems necessary, but the total peanut allotment transferred to any farm by sale or lease shall not exceed fifty acres.

(h) Adjustment of rates for land utilization agreements

If the sale or transfer occurs during a period in which the farm is covered by a conservation reserve contract, cropland conversion agreement, or other similar land utilization agreement the rates of payment provided for in the contract or agreement of the farm from which the transfer is made shall be subject to an appropriate adjustment, but no adjustment shall be made in the contract or agreement of the farm to which the transfer is made.

(Feb. 16, 1938, ch. 30, title III, § 358a, as added Dec. 18, 1967, Pub. L. 90-211, 81 Stat. 658, and amended Nov. 21, 1969, Pub. L. 91-122, 83 Stat. 213; Dec. 22, 1970, Pub. L. 91-568, 84 Stat. 1499.)

AMENDMENTS

1970—Subsec. (a). Pub. L. 91-568 substituted "1968 and succeeding crop years" for "1968, 1969, and 1970 crop years".

1969—Subsec. (a). Pub. L. 91-122 inserted provisions relating to the 1970 crop year.

§ 1359. Marketing penalties

(a) The marketing of any peanuts in excess of the marketing quota for the farm on which such peanuts are produced, or the marketing of peanuts from any farm for which no acreage allotment was determined, shall be subject to a penalty at a rate equal to 75 per centum of the support price for peanuts for the marketing year (August 1-July 31). Such penalty shall be paid by the person who buys or otherwise acquires the peanuts from the producer, or, if the peanuts are marketed by the producer through an agent, the penalty shall be paid by such agent, and such person or agent may deduct an amount equivalent to the penalty from the price paid to the producer. The Secretary may require collection of the penalty upon a portion of each lot of peanuts marketed from the farm equal to the proportion which the acreage of peanuts in excess of the farm-acreage allotment is of the total acreage of peanuts on the farm. If the person required to collect the penalty fails to collect such penalty, such person and all persons entitled to share in the peanuts marketed from the farm or the proceeds thereof shall be jointly and severally liable for the amount of the penalty. All funds collected pursuant to this section shall be deposited in a special deposit account with the Treasurer of the United States and such amounts as are determined, in accordance with regulations prescribed by the Secretary, to be penalties incurred shall be transferred to the general fund of the Treasury of the United States. Amounts collected in excess of determined penalties shall be paid to such producers as the Secretary determines, in accordance with regulations prescribed by him, bore the burden of the payment

of the amount collected. Such special account shall be administered by the Secretary and the basis for, the amount of, and the producer entitled to receive a payment from such account, when determined in accordance with regulations prescribed by the Secretary, shall be final and conclusive. Peanuts produced in a calendar year in which marketing quotas are in effect for the marketing year beginning therein shall be subject to such quotas even though the peanuts are marketed prior to the date on which such marketing year begins. If any producer falsely identifies or fails to account for the disposition of any peanuts, an amount of peanuts equal to the normal yield of the number of acres harvested in excess of the farm acreage allotment shall be deemed to have been marketed in excess of the marketing quota for the farm, and the penalty in respect thereof shall be paid and remitted by the producer. If any amount of peanuts produced on one farm is falsely identified by a representation that such peanuts were produced on another farm, the acreage allotments next established for both such farms shall be reduced by that percentage which such amount was of the respective farm marketing quotas, except that such reduction for any such farm shall not be made if the Secretary through the local committees finds that no person connected with such farm caused, aided, or acquiesced in such marketing; and if proof of the disposition of any amount of peanuts is not furnished as required by the Secretary, the acreage allotment next established for the farm on which such peanuts are produced shall be reduced by a percentage similarly computed. Notwithstanding any other provisions of this subpart, no refund of any penalty shall be made because of peanuts kept on the farm for seed or for home consumption.

(b) The provisions of this subpart shall not apply, beginning with the 1959 crop, to peanuts produced on any farm on which the acreage harvested for nuts is one acre or less provided the producers who share in the peanuts produced on such farm do not share in the peanuts produced on any other farm. If the producers who share in the peanuts produced on a farm on which the acreage harvested for nuts is one acre or less also share in the peanuts produced on other farm(s) the peanuts produced on such farm on acreage in excess of the allotment, if any, determined for the farm shall be considered as excess acreage and the marketing penalties provided by subsection (a) of this section shall apply.

(c) The word "peanuts" for the purposes of this chapter shall mean all peanuts produced, excluding any peanuts which it is established by the producer or otherwise, in accordance with regulations of the Secretary, were not picked or threshed either before or after marketing from the farm, or were marketed by the producer before drying or removal of moisture from such peanuts either by natural or artificial means for consumption exclusively as boiled peanuts.

(d) The person liable for payment or collection of the penalty provided by this section shall be liable also for interest thereon at the rate of 6 per centum per annum from the date the penalty becomes due until the date of payment of such penalty.

(e) Until the amount of the penalty provided by this section is paid, a lien on the crop of peanuts with respect to which such penalty is incurred, and on any subsequent crop of peanuts subject to marketing quotas in which the person liable for payment or the penalty has an interest shall be in effect in favor of the United States.

(Feb. 16, 1938, ch. 30, title III, § 359, as added Apr. 3, 1941, ch. 39, § 1, 55 Stat. 90, and amended July 9, 1942, ch. 497, § 1(2), (3), 56 Stat. 653; Aug. 1, 1947, ch. 445, § 2, 61 Stat. 721; July 3, 1948, ch. 827, title II, § 207(d), 62 Stat. 1257; Mar. 31, 1950, ch. 81, § 6(a), 64 Stat. 42; Apr. 12, 1951, ch. 28, § 2, 65 Stat. 30; Mar. 28, 1952, ch. 110, 66 Stat. 27; May 28, 1956, ch. 327, title III, §§ 305, 306, 70 Stat. 205; Aug. 13, 1957, Pub. L. 85-127, 71 Stat. 344; Aug. 21, 1958, Pub. L. 85-717, § 2, 72 Stat. 709.)

AMENDMENTS

1958—Subsec. (b). Pub. L. 85-717 provided that after 1959 the one acre exemption applies only if producers do not share in peanuts produced on any other farm.

1957—Subsec. (c). Pub. L. 85-127 inserted ", or were marketed by the producer before drying or removal of moisture from such peanuts either by natural or artificial means for consumption exclusively as boiled peanuts".

1956—Subsec. (a). Act May 28, 1956, § 305, substituted "75 per centum of the support price for peanuts for the marketing year (August 1–July 31)" for "50 per centum of the basic rate of the loan (calculated to the nearest tenth of a cent) for farm marketing quota peanuts for the marketing year August 1–July 31".

Subsecs. (d) and (e). Act May 28, 1956, § 306, added subsecs. (d) and (e). Former subsecs. (d) and (e) were repealed by act July 3, 1948.

1952—Subsecs. (f) to (i). Act Mar. 28, 1952, repealed subsecs. (f) to (i), which permitted farmers to grow peanuts for oil in excess of marketing quotas.

1951—Subsec. (a). Act Apr. 12, 1951, added sentence beginning "Notwithstanding any other".

Subsec. (g). Act Apr. 12, 1951, established 1948 as the year to be referred to in cases where no peanuts were harvested in 1947, and provided that the Secretary may authorize peanut buyers to purchase excess peanuts from producers at specified price levels.

1950—Subsecs. (g) to (i). Act Mar. 31, 1950, added subsecs. (g) to (i).

1948—Subsecs. (d) and (e). Act July 3, 1948, repealed subsecs. (d) and (e) which related to referendums and appropriations.

1947—Act Aug. 1, 1947, amended section generally by changing the penalty for excess marketing of peanuts from a flat penalty of 3 cents per pound to 50 per cent of the basic loan rate and substituted last two sentences for former last sentence which provided a $25 penalty per acre for falsely indemnifying or failing to account for peanuts produced in subsec. (a), struck out former subsec. (b) exempting peanuts to be sold and crushed for oil or used for seed from excess marketing penalty, and redesignated subsecs. (c) to (g) to be subsecs. (b) to (f), respectively.

1942—Subsecs. (b) and (d). Act July 9, 1942, § 1(2), (3), amended subsecs. (b) and (d), respectively.

EFFECTIVE DATE OF 1957 AMENDMENT

Pub. L. 85-127, as amended by Pub. L. 86-358, Sept. 22, 1959, 73 Stat. 642; Pub. L. 87-239, Sept. 14, 1961, 75 Stat. 512; Pub. L. 88-76 July 25, 1963, 77 Stat. 92; Pub. L. 89-321, title VII, § 704, Nov. 3, 1965, 79 Stat. 1210; Pub. L. 90-559, § 1(1), Oct. 11, 1968, 82 Stat. 996; Pub. L. 91-524, title VIII, § 802, Nov. 30, 1970, 84 Stat. 1381, provided in part that the amendment of subsec. (c) by

Pub. L. 85-127 shall be effective for the 1957 and subsequent crops of peanuts.

EFFECTIVE DATE OF 1956 AMENDMENT

Section 305 of act May 28, 1956, provided in part that the amendment of subsec. (a) of this section by such section 305 shall be effective beginning with the 1956 crop.

EFFECTIVE DATE OF 1948 AMENDMENT

Amendment by act July 3, 1948, effective Jan. 1, 1950, see section 303 of act July 3, 1948, set out as a note under section 1301 of this title.

SAVINGS CLAUSE

Act Mar. 28, 1952, which repealed subsecs. (f) to (i), also provided that the repeal should not affect rights or obligations arising under marketing-quota or price support operations with respect to 1951 or prior crops of peanuts.

TRANSFER OF FUNCTIONS

All functions of all officers, agencies and employees of the Department of Agriculture were transferred, with certain exceptions, to the Secretary of Agriculture by 1953 Reorg. Plan No. 2, § 1, eff. June 4, 1953, 18 F.R. 3219, 67 Stat. 633, set out as a note under section 2201 of this title.

All functions of all officers of the Department of the Treasury, and all functions of all agencies and employees of such Department, were transferred with certain exceptions, to the Secretary of the Treasury, with power vested in him to authorize their performance or the performance of any of his functions, by any of such officers, agencies, and employees, by 1950 Reorg. Plan No. 26, §§ 1, 2, eff. July 31, 1950, 15 F.R. 4935, 64 Stat. 1280, set out in the Appendix to Title 5, Government Organization and Employees. The Treasurer of the United States, referred to in this section, is an officer of the Treasury Department.

The administration of the program of the Commodity Credit Corporation was transferred to the Secretary of Agriculture by 1946 Reorg. Plan No. 3, § 501, 11 F.R. 7877, 60 Stat. 1100, set out in the Appendix to Title 5.

EXCEPTIONS FROM TRANSFER OF FUNCTIONS

Functions of the Corporations of the Department of Agriculture, the boards of directors and officers of such corporations; the Advisory Board of the Commodity Credit Corporation; and the Farm Credit Administration or any agency, officer or entity of, under, or subject to the supervision of the said Administration were excepted from the functions of officers, agencies and employees transferred to the Secretary of Agriculture by 1953 Reorg. Plan No. 2, § 1, eff. June 4, 1953, 18 F.R. 3219, 67 Stat. 633, set out as a note under section 2201 of this title.

PART C—ADMINISTRATIVE PROVISIONS

SUBPART I—PUBLICATION AND REVIEW OF QUOTAS

§ 1361. Application of subpart

This subpart shall apply to the publication and review of farm marketing quotas established for tobacco, corn, wheat, cotton, peanuts, and rice, established under part B of this subchapter.

(Feb. 16, 1938, ch. 30, title III, § 361, 52 Stat. 62; Apr. 3, 1941, ch. 39, § 4, 55 Stat. 92.)

REFERENCES IN TEXT

Part B of this subchapter, referred to in text, commences with section 1311 of this title.

AMENDMENTS

1941—Act Apr. 3, 1941, inserted "peanuts," after "cotton".

§ 1362. Publication of marketing quota; mailing of allotment notice

All acreage allotments, and the farm marketing quotas established for farms in a county or other local administrative area shall, in accordance with regulations of the Secretary, be made and kept freely available for public inspection in such county or other local administrative area. An additional copy of this information shall be kept available in the office of the county agricultural extension agent or with the chairman of the local committee. Notice of the farm marketing quota of his farm shall be mailed to the farmer.

Notice of the farm acreage allotment established for each farm shown by the records of the county committee to be entitled to such allotment shall insofar as practicable be mailed to the farm operator in sufficient time to be received prior to the date of the referendum.

(Feb. 16, 1938, ch. 30, title III, § 362, 52 Stat. 62; Aug. 29, 1949, ch. 518, § 2(c), 63 Stat. 670.)

AMENDMENTS

1949—Act Aug. 29, 1949, added paragraph providing for the mailing of notice of allotment.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1363 of this title.

§ 1363. Review of quota; review committee

Any farmer who is dissatisfied with his farm marketing quota may, within fifteen days after mailing to him of notice as provided in section 1362 of this title, have such quota reviewed by a local review committee composed of three farmers from the same or nearby counties appointed by the Secretary. Such committee shall not include any member of the local committee which determined the farm acreage allotment, the normal yield, or the farm marketing quota for such farm. Unless application for review is made within such period, the original determination of the farm marketing quota shall be final.

(Feb. 16, 1938, ch. 30, title III, § 363, 52 Stat. 63; Apr. 12, 1951, ch. 28, § 3, 65 Stat. 31.)

AMENDMENTS

1951—Act Apr. 12, 1951, provided that the Secretary shall appoint a local review committee composed of 3 farmers from the same or nearby counties.

REVIEW OF 1950 COTTON FARM ACREAGE ALLOTMENT

Section 2 of act Mar. 31, 1950, ch. 81, 64 Stat. 41, provided that any farmer dissatisfied with his farm acreage allotment for the 1950 cotton crop could have such allotment reviewed in accordance with the provisions of this chapter.

CROSS REFERENCES

Rice, review of primary market quota in accordance with this section, see section 1380e of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1380e of this title.

§ 1364. Compensation of review committee

The members of the review committee shall receive as compensation for their services the same per diem as that received by the members of the committee utilized for the purposes of the Soil Conservation and Domestic Allotment Act, as amended [16 U.S.C. 590a et seq.]. The members of the review committee shall not be entitled to receive compensation for more than thirty days in any one year.

(Feb. 16, 1938, ch. 30, title III, § 364, 52 Stat. 63.)

REFERENCES IN TEXT

The Soil Conservation and Domestic Allotment Act, as amended, referred to in the text of section, is act Apr. 27, 1935, ch. 85, 49 Stat. 163, as amended, which is classified generally to chapter 3B (§ 590a et seq.) of Title 16, Conservation. For complete classification of this Act to the Code, see Tables volume.

CROSS REFERENCES

Rice, review of primary market quota in accordance with this section, see section 1380e of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1380e of this title.

§ 1365. Institution of proceeding for court review of committee findings

If the farmer is dissatisfied with the determination of the review committee, he may, within fifteen days after a notice of such determination is mailed to him by registered mail or by certified mail, file a bill in equity against the review committee as defendant in the United States district court, or institute proceedings for review in any court of record of the State having general jurisdiction, sitting in the county or the district in which his farm is located, for the purpose of obtaining a review of such determination. Bond shall be given in an amount and with surety satisfactory to the court to secure the United States for the costs of the proceeding. The bill of complaint in such proceeding may be served by delivering a copy thereof to any one of the members of the review committee. Thereupon the review committee shall certify and file in the court a transcript of the record upon which the determination complained of was made, together with its findings of fact.

(Feb. 16, 1938, ch. 30, title III, § 365, 52 Stat. 63; June 11, 1960, Pub. L. 86-507, § 1(5), 74 Stat. 200.)

AMENDMENTS

1960—Pub. L. 86-507 inserted "or by certified mail" following "registered mail".

CROSS REFERENCES

Rice, review of primary market quota in accordance with this section, see section 1380e of this title.

FEDERAL RULES OF CIVIL PROCEDURE

One form of action, see rule 2, Title 28, Appendix, Judiciary and Judicial Procedure.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1380e of this title.

§ 1366. Court review

The review by the court shall be limited to questions of law, and the findings of fact by the review committee, if supported by evidence shall be conclusive. If application is made to the court for leave to adduce additional evidence, and it is shown to the satisfaction of the court that such additional evidence is material and that there were reasonable grounds for failure to adduce such evidence in the hearing before the review committee, the court may direct such additional evidence to be taken before the review committee in such manner and upon such terms and conditions as to the court may seem proper. The review committee may modify its findings of fact or its determination by reason of the additional evidence so taken, and it shall file with the court such modified findings or determination, which findings of fact shall be conclusive. At the earliest convenient time, the court, in term time or vacation, shall hear and determine the case upon the original record of the hearing before the review committee, and upon such record as supplemented if supplemented, by further hearing before the review committee pursuant to direction of the court. The court shall affirm the review committee's determination, or modified determination, if the court determines that the same is in accordance with law. If the court determines that such determination or modified determination is not in accordance with law, the court shall remand the proceeding to the review committee with direction either to make such determination as the court shall determine to be in accordance with law or to take such further proceedings as, in the court's opinion, the law requires.

(Feb. 16, 1938, ch. 30, title III, § 366, 52 Stat. 63.)

CROSS REFERENCES

Rice, review of primary market quota in accordance with this section, see section 1380e of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1380e of this title.

§ 1367. Stay of proceedings and exclusive jurisdiction

The commencement of judicial proceedings under this subpart shall not, unless specifically ordered by the court, operate as a stay of the review committee's determination. Notwithstanding any other provision of law, the jurisdiction conferred by this subpart to review the legal validity of a determination made by a review committee pursuant to this subpart shall be exclusive. No court of the United States or of any State shall have jurisdiction to pass upon the legal validity of any such determination except in a proceeding under this subpart.

(Feb. 16, 1938, ch. 30, title III, § 367, 52 Stat. 64.)

CROSS REFERENCES

Rice, review of primary market quota in accordance with this section, see section 1380e of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1380e of this title.

§ 1368. Effect of increase on other quotas

Notwithstanding any increase of any farm marketing quota for any farm as a result of review of the determination thereof under this subpart, the marketing quotas for other farms shall not be affected.

(Feb. 16, 1938, ch. 30, title III, § 368, 52 Stat. 64.)

CROSS REFERENCES

Rice, review of primary market quota in accordance with this section, see section 1380e of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1380e of this title.

SUBPART II—ADJUSTMENT OF QUOTAS AND ENFORCEMENT

§ 1371. General adjustment of quotas

(a) Investigation and adjustment to maintain normal supply

If at any time the Secretary has reason to believe that in the case of cotton, rice, peanuts, or tobacco the operation of farm marketing quotas in effect will cause the amount of such commodity which is free of marketing restrictions to be less than the normal supply for the marketing year for the commodity then current, he shall cause an immediate investigation to be made with respect thereto. In the course of such investigation due notice and opportunity for hearing shall be given to interested persons. If upon the basis of such investigation the Secretary finds the existence of such fact, he shall proclaim the same forthwith. He shall also in such proclamation specify such increase in, or termination of, existing quotas as he finds, on the basis of such investigation, is necessary to make the amount of such commodity which is free of marketing restrictions equal the normal supply.

(b) Adjustment because of emergency or export demand

If the Secretary has reason to believe that, because of a national emergency or because of a material increase in export demand, any national marketing quota or acreage allotment for cotton, rice, peanuts, or tobacco should be increased or terminated, he shall cause an immediate investigation to be made to determine whether the increase or termination is necessary to meet such emergency or increase in export demand. If, on the basis of such investigation, the Secretary finds that such increase or termination is necessary, he shall immediately proclaim such finding (and if he finds an increase is necessary, the amount of the increase found by him to be necessary) and thereupon such quota or allotment shall be increased, or shall terminate, as the case may be.

(c) Increase of farm quota on increase of national quota

In case any national marketing quota or acreage allotment for any commodity is increased under this section, each farm marketing quota for the commodity shall be increased in the same ratio.

(Feb. 16, 1938, ch. 30, title III, § 371, 52 Stat. 64; Apr. 3, 1941, ch. 39, § 5, 55 Stat. 92; Aug. 28, 1954, ch. 1041, title III, § 312, 68 Stat 905; Sept. 27, 1962, Pub. L. 87-703, title III, § 321, 76 Stat. 626.)

AMENDMENTS

1962—Subsec. (a). Pub. L. 87-703, § 321(1), deleted "corn, wheat," preceding "cotton".

Subsec. (b). Pub. L. 87-703, § 321(2), deleted "any national acreage allotment for corn, or" after "export demand,", "wheat," preceding "cotton" and "in order to effect the declared policy of this chapter or" preceding "to meet such emergency".

1954—Subsec. (b). Act Aug. 28, 1954, § 312(a), added proviso relating to national acreage allotment for corn, and eliminated corn from national marketing quota provision.

Subsec. (c). Act Aug. 28, 1954, § 312(b), inserted "or acreage allotment" following "marketing quota" wherever appearing.

Subsec. (d). Act Aug. 28, 1954, § 312(c), repealed subsec. (d) which related to the adjustment of corn storage regulations on change in marketing quotas.

1941—Subsecs. (a) and (b). Act Apr. 3, 1941, inserted "peanuts" after "rice".

EFFECTIVE DATE OF 1962 AMENDMENT

Amendment made by section 321 of Pub. L. 87-703 effective only with respect to programs applicable to the crops planted for harvest in the calendar year 1964, or any subsequent year and the marketing years beginning in the calendar year 1964, or any subsequent year, see section 323 of Pub. L. 87-703, set out as a note under section 1301 of this title.

CROSS REFERENCES

Delegation of regulatory functions of Secretary of Agriculture, see section 450c et seq. of this title.

§ 1372. Payment, collection, and refund of penalties

(a) The penalty with respect to the marketing, by sale, of wheat, cotton, or rice, if the sale is to any person within the United States, shall be collected by the buyer.

(b) All penalties provided for in part B of this subchapter shall be collected and paid in such manner, at such times, and under such conditions as the Secretary may by regulations prescribe. Such penalties shall be remitted to the Secretary by the person liable for the penalty, except that if any other person is liable for the collection of the penalty, such other person shall remit the penalty. The amount of such penalties shall be covered into the general fund of the Treasury of the United States.

(c) Whenever, pursuant to a claim filed with the Secretary within two years after payment to him of any penalty collected from any person pursuant to this chapter, the Secretary finds that such penalty was erroneously illegally, or wrongfully collected and the claimant bore the burden of the payment of such penalty, the Secretary shall certify to the Secretary of the Treasury for payment to the claimant, in accordance with regulations prescribed by the Secretary of the Treasury, such amount as the Secretary finds the claimant is entitled to receive as a refund of such penalty.

Notwithstanding any other provision of law, the Secretary is authorized to prescribe by regulations for the identification of farms and it shall be sufficient to schedule receipts into spe-

cial deposit accounts or to schedule such receipts for transfer therefrom, or directly, into the separate fund provided for in subsection (b) of this section by means of such identification without reference to the names of the producers on such farms.

The Secretary is authorized to prescribe regulations governing the filing of such claims and the determination of such refunds.

(d) No penalty shall be collected under this chapter with respect to the marketing of any agricultural commodity grown for experimental purposes only by any publicly owned agricultural experiment station.

(Feb. 16, 1938, ch. 30, title III, § 372, 52 Stat. 65; Apr. 7, 1938, ch. 107, § 11, 52 Stat. 204; July 2, 1940, ch. 521, § 6, 54 Stat. 728.)

REFERENCES IN TEXT

Part B of this subchapter, referred to in subsec. (b), commences with section 1311 of this title.

AMENDMENTS

1940—Subsec. (c). Act July 2, 1940, substituted "within two years" for "within one year" and inserted "and the claimant bore the burden of the payment of such penalty" after "wrongfully collected" in the first par. and inserted the second par. authorizing regulations for farm identification, etc.

1938—Subsecs. (c), (d). Act Apr. 7, 1938, added subsecs. (c) and (d).

CROSS REFERENCES

Agricultural experiment stations, see section 361a et seq. of this title.

§ 1373. Reports and records

(a) Persons reporting

This subsection shall apply to warehousemen, processors, and common carriers of corn, wheat, cotton, rice, peanuts, or tobacco, and all ginners of cotton, all persons engaged in the business of purchasing corn, wheat, cotton, rice, peanuts, or tobacco from producers, all persons engaged in the business of redrying, prizing, or stemming tobacco for producers, all brokers and dealers in peanuts, all agents marketing peanuts for producers, or acquiring peanuts for buyers and dealers, and all peanut growers' cooperative associations, all persons engaged in the business of cleaning, shelling, crushing, and salting of peanuts and the manufacture of peanut products, and all persons owning or operating peanut-picking or peanut-threshing machines. Any such person shall, from time to time on request of the Secretary, report to the Secretary such information and keep such records as the Secretary finds to be necessary to enable him to carry out the provisions of this subchapter. Such information shall be reported and such records shall be kept in accordance with forms which the Secretary shall prescribe. For the purpose of ascertaining the correctness of any report made or record kept, or of obtaining information required to be furnished in any report, but not so furnished, the Secretary is authorized to examine such books, papers, records, accounts, correspondence, contracts, documents, and memoranda as he has reason to believe are relevant and are within the control of such person. Any such person failing to make any report or keep any record as required by this subsection or making any false report or record shall be deemed guilty of a misdemeanor and upon conviction thereof shall be subject to a fine of not more than $500; and any tobacco warehouseman or dealer who fails to remedy such violation by making a complete and accurate report or keeping a complete and accurate record as required by this subsection within fifteen days after notice to him of such violation shall be subject to an additional fine of $100 for each ten thousand pounds of tobacco, or fraction thereof, bought or sold by him after the date of such violation: *Provided,* That such fine shall not exceed $5,000; and notice of such violation shall be served upon the tobacco warehouseman or dealer by mailing the same to him by registered mail or by certified mail or by posting the same at any established place of business operated by him, or both.

(b) Proof of acreage yield

Farmers engaged in the production of corn, wheat, cotton, rice, peanuts, or tobacco for market shall furnish such proof of their acreage, yield, storage, and marketing of the commodity in the form of records, marketing cards, reports, storage under seal, or otherwise as the Secretary may prescribe as necessary for the administration of this subchapter.

(c) Data as confidential

All data reported to or acquired by the Secretary pursuant to this section shall be kept confidential by all officers and employees of the Department, and only such data so reported or acquired as the Secretary deems relevant shall be disclosed by them, and then only in a suit or administrative hearing under this subchapter.

(Feb. 16, 1938, ch. 30, title III, § 373, 52 Stat. 65; June 13, 1940, ch. 360, § 6, 54 Stat. 394; Apr. 3, 1941, ch. 39, §§ 6, 7, 55 Stat. 92; June 11, 1960, Pub. L. 86-507, § 1(6), 74 Stat. 200.)

AMENDMENTS

1960—Subsec. (a). Pub. L. 86-507 inserted "or by certified mail" following "registered mail".

1941—Subsec. (a). Act Apr. 3, 1941, § 6, among other changes, inserted "peanuts" after "rice" wherever appearing and adding "all brokers and dealers in peanuts, all agents marketing peanuts for producers, or acquiring peanuts for buyers and dealers, and all peanut growers' cooperative associations, all persons engaged in the business of cleaning, shelling, crushing, and salting of peanuts and the manufacture of peanut products, and all persons owning or operating peanut-picking or peanut-threshing machines".

Subsec. (b). Act Apr. 3, 1941, § 7, inserted "peanuts" after "rice".

1940—Subsec. (a). Act June 13, 1940, added all following "$500;" in last sentence.

CROSS REFERENCES

Rice reports and records, provisions of this section applicable, see section 1380*o* of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1380*o* of this title.

§ 1374. Measurement of farms and report of plantings; remeasurement

(a) The Secretary shall provide for ascertaining, by measurement or otherwise, the acreage of any agricultural commodity or land use on farms for which the ascertainment of such acreage is necessary to determine compliance

under any program administered by the Secretary. Insofar as practicable, the acreage of the commodity and land use shall be ascertained prior to harvest, and, if any acreage so ascertained is not in compliance with the requirements of the program the Secretary, under such terms and conditions as he prescribes, may provide a reasonable time for the adjustment of the acreage of the commodity or land use to the requirements of the program. Where cotton is planted in skiprow patterns, the same rules that were in effect for the 1971 through 1973 crops for classifying the acreage planted to cotton and the area skipped shall also apply to the 1974 through 1977 crops.

(b) With respect to cotton, the Secretary, upon such terms and conditions as he may by regulation prescribe, shall provide, through the county and local committees for the measurement prior to planting of an acreage on the farm equal to the farm acreage allotment if so requested by the farm operator, and any farm on which the acreage planted to cotton does not exceed such measured acreage shall be deemed to be in compliance with the farm acreage allotment.

(c) The Secretary shall by appropriate regulations provide for the remeasurement upon request by the farm operator of the acreage planted to such commodity on the farm and for the measurement of the acreage planted to such commodity on the farm remaining after any adjustment of excess acreage hereunder and shall prescribe the conditions under which the farm operator shall be required to pay the county committee for the expense of the measurement of adjusted acreage or the expense of remeasurement after the initial measurement or the measurement of adjusted acreage. The regulations shall also provide for the refund of any deposit or payment made for the expense of the remeasurement of the initially determined acreage or the adjusted acreage when because of an error in the determination of such acreage the remeasurement brings the acreage within the allotment or permitted acreage or results in a change in acreage in excess of a reasonable variation normal to measurements of acreage of the commodity. Unless the requirements for measurement of adjusted acreage are met by the farm operator, the acreage prior to such adjustment as determined by the county committee shall be considered the acreage of the commodity on the farm in determining whether the applicable farm allotment has been exceeded.

(Feb. 16, 1938, ch. 30, title III, § 374, 52 Stat. 65; Apr. 3, 1941, ch. 39, § 8, 55 Stat. 92; Aug. 29, 1949, ch. 518, § 2(b), 63 Stat. 676; Aug. 28, 1954, ch. 1041, title III, § 311(b), 68 Stat. 904; June 30, 1960, Pub. L. 86-553, §§ 1, 2, 74 Stat. 258; Nov. 3, 1965, Pub. L. 89-321, title VII, §§ 701, 702, 79 Stat. 1210; Nov. 30, 1970, Pub. L. 91-524, title VI, § 612, as added Aug. 10, 1973, Pub. L. 93-86, § 1(25), 87 Stat. 236.)

AMENDMENTS

1973—Subsec. (a). Pub. L. 91-524, § 612, as added by Pub. L. 93-86 added provisions relating to cotton planted in skiprow patterns.

1965—Subsec. (a). Pub. L. 89-321, § 701, removed references to county and local committees as the agent for measuring commodity or land use acreage, substituted a general reference to any agricultural commodity or land use on farms requiring ascertainment of acreage for specific reference to corn, wheat, cotton, peanuts, or rice, and substituted provisions requiring ascertainment of commodity and land use prior to harvesting and allowing a reasonable time for adjustment of acreage requirements for provisions requiring the filing of a written report by the local committee with the state committee in the event of planting in excess of farm acreage allotment.

Subsec. (c). Pub. L. 89-321, § 702, deleted sentence directing the Secretary to provide by regulation for the adjustment of planted acreage to the farm acreage allotment if the acreage determined to be planted to any basic agricultural commodity on the farm is in excess of the farm acreage allotment.

1960—Subsec. (b). Pub. L. 86-553, § 1, omitted the second sentence reading: "The Secretary shall similarly provide for the remeasurement upon request by the farm operator of the acreage planted to cotton on the farm, but the operator shall be required to reimburse the local committee for the expense of such remeasurement if the planted acreage is found to be in excess of the alloted acreage" which is now covered by subsec. (c) of this section.

Subsec. (c). Pub. L. 86-553, § 2, authorized the Secretary to provide by regulations for remeasurement of acreage planted to a basic agricultural commodity and for measurement of acreage planted to such commodity remaining after adjustment of excess of measurement and remeasurement and to provide for refunds, and prescribed method of computing acreage in determining whether the applicable farm allotment has been exceeded.

1954—Subsec. (b). Act Aug. 28, 1954, struck out last sentence relating to overplanting of cotton acreage.

Subsec. (c). Act Aug. 28, 1954, added subsec. (c).

1949—Act Aug. 29, 1949, redesignated existing provisions as subsec. (a) and added subsec. (b).

1941—Act Apr. 3, 1941, inserted "peanuts," after "cotton".

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1349 of this title.

§ 1375. Regulations

(a) The Secretary shall provide by regulations for the identification, wherever necessary, of corn, wheat, cotton, rice, peanuts, or tobacco so as to afford aid in discovering and identifying such amounts of the commodities as are subject to and such amounts thereof as are not subject to marketing restrictions in effect under this subchapter.

(b) The Secretary shall prescribe such regulations as are necessary for the enforcement of this subchapter.

(Feb. 16, 1938, ch. 30, title III, § 375, 52 Stat. 66; Apr. 3, 1941, ch. 39, § 9, 55 Stat. 92.)

AMENDMENTS

1941—Subsec. (a). Act Apr. 3, 1941 inserted "peanuts," after "rice".

CROSS REFERENCES

Delegation of regulatory functions of Secretary of Agriculture, see section 450c et seq. of this title.

§ 1376. Court jurisdiction; duties of United States attorneys; remedies and penalties as additional

The several district courts of the United States are vested with jurisdiction specifically to enforce the provisions of this subchapter. If and when the Secretary shall so request, it shall be the duty of the several United States

attorneys in their respective districts, under the direction of the Attorney General, to institute proceedings to collect the penalties provided in this subchapter. The remedies and penalties provided for herein shall be in addition to, and not exclusive of, any of the remedies or penalties under existing law. This section also shall be applicable to liquidated damages provided for pursuant to section 1349 of this title.

(Feb. 16, 1938, ch. 30, title III, § 376, 52 Stat. 66; June 25, 1948, ch. 646, § 1, 62 Stat. 869; Apr. 11, 1964, Pub. L. 88-297, title I, § 106(2), 78 Stat. 176.)

AMENDMENTS

1964—Pub. L. 88-297 provided for the application of this section to liquidated damages under section 1349 of this title.

CHANGE OF NAME

The term "district attorneys" was changed to "United States attorneys" by act June 25, 1948. See section 541 of Title 28, Judiciary and Judicial Procedure.

CROSS REFERENCES

Jurisdiction of district courts of actions for recovery of penalties, see section 1355 of Title 28, Judiciary and Judicial Procedure.

§ 1377. Preservation of unused acreage allotments

In any case in which, during any year beginning with 1956, the acreage planted to a commodity on any farm is less than the acreage allotment for such farm, the entire acreage allotment for such farm (excluding any allotment released from the farm or reapportioned to the farm and any allotment provided for the farm pursuant to subsection (f)(7)(A) of section 1344 of this title) shall, except as provided herein, be considered for the purpose of establishing future State, county and farm acreage allotments, to have been planted to such commodity in such year on such farm, but the 1956 acreage allotment of any commodity shall be regarded as planted under this section only if the owner or operator on such farm notified the county committee prior to the sixtieth day preceding the beginning of the marketing year for such commodity of his desire to preserve such allotment: *Provided,* That beginning with the 1960 crop, except for federally owned land, the current farm acreage allotment established for a commodity shall not be preserved as history acreage pursuant to the provisions of this section unless for the current year or either of the two preceding years as acreage equal to 75 per centum or more of the farm acreage allotment for such year or, in the case of upland cotton on a farm which qualified for price support on the crop produced in any such year under section 1444(b) of this title, 75 per centum of the farm domestic allotment established under section 1350 of this title for any such year, whichever is smaller was actually planted or devoted to the commodity on the farm (or was regarded as planted under provisions of the Soil Bank Act or the Great Plains program): *Provided further,* That this section shall not be applicable in any case, within the period 1956 to 1959, in which the amount of the commodity required to be stored to postpone or avoid payment of penalty has been reduced because the allotment was not fully planted. Acreage history credits for released or reapportioned acreage shall be governed by the applicable provisions of this subchapter pertaining to the release and reapportionment of acreage allotments.

(Feb. 16, 1938, ch. 30, title III, § 377, as added May 28, 1956, ch. 327, title III, § 307, 70 Stat. 206, and amended Sept. 2, 1957, Pub. L. 85-266, 71 Stat. 592; Aug. 18, 1959, Pub. L. 86-172, § 1, 73 Stat. 393; Apr. 11, 1964, Pub. L. 88-297, title I, § 106(4), 78 Stat. 177.)

REFERENCES IN TEXT

Soil Bank Act, referred to in text, was classified to former subchapters I to III of chapter 45 (§ 1801 et seq.) of this title and was repealed by Pub. L. 89-321, title VI, § 601, Nov. 3, 1965, 79 Stat. 1206.

AMENDMENTS

1964—Pub. L. 88-297 inserted "or, in the case of upland cotton on a farm which qualified for price support on the crop produced in any such year under section 1444(b) of this title, 75 per centum of the farm domestic allotment established under section 1350 of this title for any such year, whichever is smaller" in the first proviso following "75 per centum or more of the farm acreage allotment for such year" to protect the farm base of any farm participating in the domestic allotment choice program if the acreage planted on the farm was at least 75 per centum of the farm domestic allotment.

1959—Pub. L. 86-172 excluded any allotment provided for a farm under section 1344(f)(7)(A) of this title from the entire acreage allotment for the farm which is considered as planted in the year for the purpose of establishing future acreage allotments and provided for the preservation of the current farm acreage allotment as history acreage under prescribed conditions.

1957—Pub. L. 85-266 eliminated, for 1957, 1958, and 1959, requirement of filing notice of intention not to plant full acreage allotment and provided that acreage history credits for released or reapportioned acreage shall be governed by the applicable provisions of this subchapter pertaining to the release and reapportionment of acreage allotments.

INAPPLICABILITY TO 1976 AND 1977 CROPS OF RICE

Pub. L. 94-214, title III, § 301, Feb. 16, 1976, 90 Stat. 187 provided that: "Section 377 of the Agricultural Adjustment Act of 1938 [this section] shall not be applicable to the 1976 and 1977 crops of rice."

INAPPLICABILITY TO UPLAND COTTON OF THE 1971 THROUGH 1977 CROPS

Pub. L. 91-524, title VI, § 601(1), Nov. 30, 1970, 84 Stat. 1371, as amended by Pub. L. 93-86, § 1(19)(A), Aug. 10, 1973, 87 Stat. 233, provided in part this section shall not be applicable to upland cotton of the 1971 through 1977 crops.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1344, 1353, 1358 of this title.

§ 1378. Transfer of acreage allotments ensuing from agency acquisition of farmlands

(a) Allotment pool

Notwithstanding any other provision of this chapter, the allotment determined for any commodity for any land from which the owner is displaced because of acquisition of the land for any purpose, other than for the continued production of allotted crops, by any Federal, State, or other agency having the right of eminent domain shall be placed in an allotment pool and

shall be available only for use in providing allotments for other farms owned by the owner so displaced. Upon application to the county committee, within three years after the date of such displacement, any owner so displaced shall be entitled to have allotments established for other farms owned by him, taking into consideration the land, labor, and equipment available on such other farms for the production of the commodity, crop-rotation practices, and the soil and other physical factors affecting the production of the commodity: *Provided,* That the acreage used to establish or increase the allotments for such farms shall be transferred from the pool and shall not exceed the allotment most recently established for the farm acquired from the applicant and placed in the pool. During the period of eligibility for the making of allotments under this section for a displaced owner, acreage allotments for the farm from which the owner was so displaced shall be established in accordance with the procedure applicable to other farms, and such allotments shall be considered to have been fully planted. After such allotment is made under this section, the proportionate part, or all, as the case may be, of the past acreage used in establishing the allotment most recently placed in the pool for the farm from which the owner was so displaced shall be transferred to and considered for the purposes of future State, county, and farm acreage allotments to have been planted on the farm to which allotment is made under this section. Except where subsection (c) of this section requires the transfer of allotment to another portion of the same farm, for the purpose of this section (1) that part of any farm from which the owner is so displaced and that part from which he is not so displaced shall be considered as separate farms; and (2) an owner who voluntarily relinquishes possession of the land subsequent to its acquisition by an agency having the right of eminent domain shall be considered as having been displaced because of such acquisition. The former owner of land acquired as described in this subsection shall not be considered for the purposes hereof to have been displaced from such land during any period for which such land is leased to such former owner: *Provided,* That the occupancy of the former owner under the lease follows immediately after his occupancy as owner: *And provided further,* That if a former owner has been displaced prior to April 9, 1960, and no allotment from the land owned by such former owner has been transferred from the allotment pool and such former owner leases the land formerly owned by him prior to two years from April 9, 1960, such allotment shall be retransferred from the pool to such land and the occupancy of such former owner under the lease for the purposes of this subsection shall be deemed to have begun immediately after his displacement as owner. During any year of the 3-year period the allotment from a farm may remain in the allotment pool, the displaced owner may, in accordance with regulations of the Secretary, release for one year at a time any part or all of such farm allotment to the county committee for reapportionment to other farms in the county having allotments for such commodity on the basis of the past acreage of the commodity, land, labor, equipment available for the production of the commodity, crop rotation practices, and soil and other physical facilities affecting the production of the commodity; and the allotment reapportioned shall, for purposes of establishing future farm allotments, not be regarded as planted on the farm to which the allotment was transferred.

(b) Circumstances precluding application of provisions

The provisions of this section shall not be applicable if (1) there is any marketing quota penalty due with respect to the marketing of the commodity from the farm acquired by the Federal, State, or other agency or by the owner of the farm; (2) any of the commodity produced on such farm has not been accounted for as required by the Secretary; or (3) the allotment next established for the farm acquired by the Federal, State, or other agency would have been reduced because of false or improper identification of the commodity produced on or marketed from such farm or due to a false acreage report.

(c) Time of displacement determining application of provisions

This section shall not be applicable, in the case of cotton, tobacco, and peanuts, to any farm from which the owner was displaced prior to 1950, in the case of wheat and corn, to any farm from which the owner was displaced prior to 1954, and in the case of rice, to any farm from which the owner was displaced prior to 1955. In any case where the cropland acquired for nonfarming purposes from an owner by an agency having the right of eminent domain represents less than 15 per centum of the total cropland on the farm, the allotment attributable to that portion of the farm so acquired shall be transferred to that portion of the farm not so acquired.

(d) Farm base acreage allotment for upland cotton included within term "allotment"

The term "allotment" as used in this section includes the farm base acreage allotment for upland cotton.

(e) Domestic allotment for wheat included within term "allotment"

The term "allotment" as used in this section includes the domestic allotment for wheat.

(f) Burley tobacco marketing allotment and acreage as meaning marketing quota and poundage

In applying the provisions of this section to a farm for which a tobacco marketing quota has been determined under section 1314e of this title, the words "allotment" and "acreage", wherever they appear, shall be construed to mean "marketing quota" and "poundage", respectively, as required.

(Feb. 16, 1938, ch. 30, title III, § 378(a)–(c), as added Aug. 28, 1958, Pub. L. 85–835, title V, § 501, 72 Stat. 995, and amended Apr. 9, 1960, Pub. L. 86–423, § 1, 74 Stat. 41; May 16, 1961, Pub. L. 87–33, 75 Stat. 78; Nov. 30, 1970, Pub. L. 91–524, title IV, § 404(3), title VI, § 605(1), 84 Stat. 1366, 1378; Apr. 14, 1971, Pub. L. 92–10, § 2, 85 Stat. 27; July 26, 1972, Pub. L. 92–354, 86 Stat. 499.)

CODIFICATION

Section is comprised of subsecs. (a) to (c) of act Feb. 16, 1938, § 378, as added by Pub. L. 85-835. Part of subsec. (d) is set out as Savings Clause Note under this section. The remainder of subsec. (d) repealed sections 1313(h), 1334(d), a prior section 1353(f), and section 1358(h) of this title.

AMENDMENTS

1972—Subsec. (a). Pub. L. 92-354 struck out the alternative time limitation for filing applications to the county committee and substituted provisions describing allotments for provisions requiring the allotments to be comparable with allotments determined for other farms in the same area which are similar except for the past acreage of the commodity.

1971—Subsec. (f). Pub. L. 92-10 added subsec. (f).

1970—Subsec. (d). Pub. L. 91-524, § 605(1), added subsec. (d).

Subsec. (e). Pub. L. 91-524, § 404(3), added subsec. (e).

1961—Pub. L. 87-33 substituted provisions permitting displaced owners to release part or all of any allotment remaining in the allotment pool for reapportionment to other farms in the county having allotments for such commodity, for provisions making sections 1344(m)(2), 1353(e), and 1358(g) of this title inapplicable to allotments held under the lease by a displaced owner.

1960—Subsec. (a). Pub. L. 86-423 inserted sentences providing that the former owner of land shall not be considered to have been displaced during any period for which such land is leased to him if his occupancy under the lease immediately follows after his occupancy as owner, authorizing retransfer of allotments in cases where a former owner leases land formerly owned by him prior to two years from April 9, 1960, and making sections 1344(m) (2), 1353(e), and 1358(g) of this title inapplicable to allotments on lands held under the lease by a displaced owner which are subject to the provisions of this amendment.

EFFECTIVE AND TERMINATION DATES OF 1970 AMENDMENT

Sections 404 and 605 of Pub. L. 91-524, as amended by Pub. L. 93-86, § 1(11), (22), Aug. 10, 1973, 87 Stat. 229, 235, provided in part that the amendments by sections 404(3) and 605(1) of Pub. L. 91-524 are effective only with respect to the 1971 through 1977 crops.

SAVINGS CLAUSE

Section 378(d) of act Feb. 16, 1938, as added by Pub. L. 85-835, § 501, provided in part that: "but any transfer or reassignment of allotment heretofore made under the provisions of these sections [former sections 1313(h), 1334(d), 1344(h), 1353(f), and 1358(h) of this title] shall remain in effect, and any displaced farm owner for whom an allotment has been established under such repealed sections [such sections] shall not be eligible for additional allotment under subsection (a) of this section [subsec. (a) of this section] because of such displacement."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1314c of this title.

§ 1379. Reconstitution of farms

In any case in which the ownership of a tract of land is transferred from a parent farm, the acreage allotments, history acreages, and base acreages for the farm shall be divided between such tract and the parent farm in the same proportion that the cropland acreage in such tract bears to the cropland acreage in the parent farm, except that the Secretary shall provide by regulation the method to be used in determining the division, if any, of the acreage allotments, histories, and bases in any case in which—

(1) the tract of land transferred from the parent farm has been or is being transferred to any agency having the right to acquire it by eminent domain;

(2) the tract of land transferred from the parent farm is to be used for nonagricultural purposes;

(3) the parent farm resulted from a combination of two or more tracts of land and records are available showing the contribution of each tract to the allotments, histories, and bases of the parent farm;

(4) the appropriate county committee determines that a division based on cropland proportions would result in allotments and bases not representative of the operations normally carried out on any transferred tract during the base period; or

(5) the parent farm is divided among heirs in settling an estate.

(6) neither the tract transferred from the parent farm nor the remaining portion of the parent farm receives allotments in excess of allotments for similar farms in the community having allotments of the commodity or commodities involved and such allotments are consistent with good land uses, but this clause (6) shall not be applicable in the case of burley tobacco.

The term "acreage allotments" as used in this section includes the farm base acreage allotments for upland cotton. The term "acreage allotments" as used in this section includes the domestic allotment for wheat.

(Feb. 16, 1938, ch. 30, title III, § 379, as added Nov. 3, 1965, Pub. L. 89-321, title VII, § 707, 79 Stat. 1211, and amended Nov. 30, 1970, Pub. L. 91-524, title IV, § 404(4), title VI, § 605(2), 84 Stat. 1366, 1378.)

AMENDMENTS

1970—Pub. L. 91-524 added provisions that the term "acreage allotments" include the farm base acreage allotments for upland cotton and the domestic allotment for wheat.

EFFECTIVE AND TERMINATION DATES OF 1970 AMENDMENT

Sections 404 and 605 of Pub. L. 91-524, as amended by Pub. L. 93-86, § 1(11), (22), Aug. 10, 1973, 87 Stat. 229, 235, provided in part that the amendments by Pub. L. 91-524 are effective only with respect to the 1971 through 1977 crops.

PART D—WHEAT MARKETING ALLOCATION

§ 1379a. Legislative findings

Wheat, in addition to being a basic food, is one of the great export crops of American agriculture and its production for domestic consumption and for export is necessary to the maintenance of a sound national economy and to the general welfare. The movement of wheat from producer to consumer, in the form of the commodity or any of the products thereof, is preponderantly in interstate and foreign commerce. Unreasonably low prices of wheat to producers impair their purchasing power for nonagriculture products and place them in a position of serious disparity with other industrial groups. The conditions affecting the pro-

duction of wheat are such that without Federal assistance, producers cannot effectively prevent disastrously low prices for wheat. It is necessary, in order to assist wheat producers in obtaining fair prices, to regulate the price of wheat used for domestic food and for exports in the manner provided in this part.

(Feb. 16, 1938, ch. 30, title III, § 379a, as added Sept. 27, 1962, Pub. L. 87-703, title III, § 324(2), 76 Stat. 626.)

SHORT TITLE

Section 1 of Pub. L. 87-703 provided: "That this Act [which enacted sections 1334b, 1339 to 1339c, 1379a to 1379j, 1431d, 1445a and 1991 of this title and section 713a-13 of Title 15, amended sections 608c, 1010, 1011, 1301, 1331 to 1334, 1335, 1336, 1340, 1371, 1385, 1427, 1431, 1431b, 1444b, former section 1697, sections 1731 to 1733, 1735, 1736, 1923, 1926, 1929, and 1942 of this title and sections 590g, 590h, 590p, 1004 and 1005 of Title 16, repealed section 1337 of this title, enacted provisions set out as notes under sections 1301, 1334, 1379a and 1441 of this title and section 590p of Title 16] may be cited as the 'Food and Agriculture Act of 1962'."

SEPARABILITY OF PROVISIONS

Section 405 of Pub. L. 87-703 provided that: "If any provision of this Act [See Short Title note under this section] is declared unconstitutional, or the applicability thereof to any person or circumstance is held invalid, the validity of the remainder of this Act and the applicability thereof to other persons and circumstances shall not be affected thereby."

§ 1379b. Avoidance of excessive total supply of wheat or other commodities

(a) Issuance of marketing certificates

The Secretary shall provide for the issuance of wheat marketing certificates for the purpose of enabling producers on any farm for which certificates are issued to receive, in addition to the other proceeds from the sale of wheat, an amount equal to the face value of such certificates.

(b) Availability of marketing certificates

The domestic wheat marketing certificates shall be made available for a farm on the number of bushels determined by multiplying the domestic allotment for the farm for the crop to which such certificates relate by the projected yield established for the farm with such adjustments as the Secretary determines necessary to provide a fair and equitable yield.

(c) Set-aside acreage

(1) The Secretary shall provide for a set-aside of cropland if he determines that the total supply of wheat or other commodities will, in the absence of such a set-aside, likely be excessive taking into account the need for an adequate carryover to maintain reasonable and stable supplies and prices and to meet a national emergency. If a set-aside of cropland is in effect under this subsection (c), then as a condition of eligibility for loans, purchases, and payments authorized by section 1445a(c) of this title, the producers on a farm must set aside and devote to approved conservation uses an acreage of cropland equal to (i) such percentage of the wheat allotment for the farm as may be specified by the Secretary and will be estimated by the Secretary to result in a set-aside not in excess of thirteen and three-tenths million acres in the case of the 1971 crop; plus, if required by the Secretary, (ii) the acreage of cropland on the farm devoted in preceding years to soil conserving uses, as determined by the Secretary. The Secretary is authorized for the 1974 through 1977 crops to limit the acreage planted to wheat on the farm to a percentage of the acreage allotment. The Secretary shall permit producers to plant and graze on set-aside acreage sweet sorghum, and the Secretary may permit, subject to such terms and conditions as he may prescribe, all or any of the set-aside acreage to be devoted to hay and grazing or the production of guar, sesame, safflower, sunflower, castor beans, mustard seed, crambe, plantago ovato, flaxseed, triticale, oats, rye, or other commodity, if he determines that such production is needed to provide an adequate supply, is not likely to increase the cost of the price-support program, and will not adversely affect farm income.

(2) To assist in adjusting the acreage of commodities to desirable goals, the Secretary may make land diversion payments, in addition to the payments authorized by section 1445a(c) of this title, available to producers on a farm who, to the extent prescribed by the Secretary, devote to approved conservation uses an acreage of cropland on the farm in addition to that required to be so devoted under subsection (c)(1) of this section. The land diversion payments for a farm shall be at such rate or rates as the Secretary determines to be fair and reasonable taking into consideration the diversion undertaken by the producers and the productivity of the acreage diverted. The Secretary shall limit the total acreage to be diverted under agreements in any county or local community so as not to adversely affect the economy of the county or local community.

(3) The wheat program formulated under this section shall require the producer to take such measures as the Secretary may deem appropriate to protect the set-aside acreage and the additional diverted acreage from erosion, insects, weeds and rodents. Such acreage may be devoted to wildlife food plots or wildlife habitat in conformity with standards established by the Secretary in consultation with wildlife agencies. The Secretary may, in the case of programs for the 1974 through 1977 crops, pay an appropriate share of the cost of practices designed to carry out the purposes of the foregoing sentences. The Secretary may provide for an additional payment on such acreage in an amount determined by the Secretary to be appropriate in relation to the benefit to the general public if the producer agrees to permit, without other compensation, access to all or such portion of the farm as the Secretary may prescribe by the general public, for hunting, trapping, fishing, and hiking, subject to applicable State and Federal regulations.

(4) If the operator of the farm desires to participate in the program formulated under this subsection (c), he shall file his agreement to do so no later than such date as the Secretary may prescribe. Loans and purchases on wheat, payments authorized by section 1445a(c) of this title, and payments under this section shall be made available to producers on such farm only if the producers set aside and devote to ap-

proved soil conserving uses an acreage on the farm equal to the number of acres which the operator agrees to set aside and devote to approved soil conserving uses, and the agreement shall so provide. The Secretary may, by mutual agreement with the producer, terminate or modify any such agreement entered into pursuant to this subsection (c)(4) if he determines such action necessary because of an emergency created by drought or other disaster, or in order to prevent or alleviate a shortage in the supply of agricultural commodities.

(d) Sharing of payments

The Secretary shall provide for the sharing of payments made under this section for any farm among producers on the farm on a fair and equitable basis.

(e) Noncompliance with program

In any case in which the failure of a producer to comply fully with the terms and conditions of the program formulated under this section precludes the making of loans, purchases, and payments, the Secretary may, nevertheless, make such loans, purchases, and payments in such amounts as he determines to be equitable in relation to the seriousness of the default.

(f) Advancements on estimated value of marketing certificates

The Secretary shall advance to producers, as soon as practicable after July 1 of the year in which the crop is harvested, an amount equal to 75 per centum of the Secretary's estimate of the face value of certificates to be issued with respect to such crop and such advance shall be repaid through the withholding of certificates for such crop having a face value equal to such advance. If the face value of the certificates as finally determined is less than the advance, the difference shall not be required to be repaid.

(g) Regulations

The Secretary is authorized to issue such regulations as he determines necessary to carry out the provisions of this subchapter.

(h) Representation of marketing certificates and transfers

Marketing certificates issued under this chapter and transfers thereof shall be represented by such documents, marketing cards, records, accounts, certifications, or other statements or forms as the Secretary may prescribe.

(i) Commodity Credit Corporation

The Secretary shall carry out the program authorized by this section through the Commodity Credit Corporation.

(Feb. 16, 1938, ch. 30, title III, § 379b, as added Sept. 27, 1962, Pub. L. 87-703, title III, § 324(2), 76 Stat. 626, and amended Apr. 11, 1964, Pub. L. 88-297, title II, § 202(10), 78 Stat. 179; Nov. 3, 1965, Pub. L. 89-321, title V, § 502, 79 Stat. 1202; Oct. 11, 1968, Pub. L. 90-559, § 1(1), 82 Stat. 996; Nov. 30, 1970, Pub. L. 91-524, title IV, § 402(a), (b)(B), (C), 84 Stat. 1362; Aug. 10, 1973, Pub. L. 93-86, § 1(9), 87 Stat. 225-227.)

CODIFICATION

Sentence in subsec. (a) reading "The face value per bushel of domestic marketing certificates for the 1971, 1972, and 1973 crops of wheat shall be in such amount as, together with the national average market price received by farmers during the first five months of the marketing year for such crop, the Secretary determines will be equal to the parity price for wheat as of the beginning of the marketing year for the crop" was omitted as executed.

AMENDMENTS

1973—Subsec. (c)(1). Pub. L. 91-524, § 402(b)(B)(i) to (vi), as added by Pub. L. 93-86 substituted "payments authorized by section 1445a(c) of this title" for "certificates on wheat", "wheat allotment" for "domestic wheat allotment", "thirteeen and three-tenths million" for "13.3 million", "1971 crop; plus, if required by the Secretary, (ii) the acreage" for "1971 crop or 15 million acres in the case of the 1972 or 1973 crop, plus (ii) the acreage", "The Secretary is authorized for the 1974 through 1977 crops to limit" for "The Secretary is authorized for the 1971, 1972, and 1973 crops to limit", "such percentage of the acreage allotment" for "such percentage of the domestic wheat allotment as he determines necessary to provide an orderly transition to the program provided for under this section", "The Secretary shall permit producers to plant and graze on set-aside acreage sweet sorghum, and the Secretary may permit, subject to such terms and conditions as he may prescribe, all or any of the set-aside acreage to be devoted to hay and" for "Grazing shall not be permitted during any of the five principal months of the normal growing season as determined by the county committee established pursuant to section 590h(b) of Title 16 and subject to this limitation (1) the Secretary shall permit producers to plant and graze on the set-aside acreage sweet sorghum, and (2) the Secretary may permit, subject to such terms and conditions as he may prescribe, all or any of the set-aside acreage to be devoted to", and "flaxseed, triticale, oats, rye, or other commodity" for "flaxseed, or other commodity".

Subsec. (c)(2). Pub. L. 91-524, § 402(b)(B)(i), as added by Pub. L. 98-86 substituted "payments authorized by section 1445a(c) of this title" for "certificates authorized in subsection (b) of this section".

Subsec. (c)(3). Pub. L. 91-524, § 402(b)(B)(vii), as added by Pub. L. 93-86 added provisions authorizing the Secretary, in the case of programs for the 1974 through 1977 crops, to pay an appropriate share of the cost of practices designated to protect set-aside acreage against erosion, insects, weeds, and rodents and to devote such acreage to wildlife food plots or wildlife habitat.

Subsec. (c)(4). Pub. L. 91-524, § 402(b)(B)(i), as added by Pub. L. 93-86 substituted "payments authorized by section 1445a(c) of this title" for "marketing certificates".

Subsec. (d). Pub. L. 91-524, § 402(b)(C), as added by Pub. L. 93-86 struck out "certificates issued and of" preceding "payments made".

Subsec. (e). Pub. L. 91-524, § 402(b)(C), as added by Pub. L. 93-86 struck out references to the issuance of certificates.

Subsec. (g). Pub. L. 91-524, § 402(b)(C), as added by Pub. L. 93-86 re-enacted subsec. (g) without change.

Subsec. (i). Pub. L. 91-524, § 402(b)(C), as added by Pub. L. 93-86 re-enacted subsec. (i) without change.

1970—Pub. L. 91-524 substituted provisions covering the issuance of domestic certificates to producers and a voluntary set-aside program for wheat for provisions for a wheat marketing allocation program for the 1964 to 1970 crops.

1968—Pub. L. 90-559 provided for a one year extension through 1970.

1965—Pub. L. 89-321 generally amended section and, among other changes, extended the wheat marketing allocation program from 1964 and 1965 to 1966 through 1969, put a minimum limitation of five hundred million bushels on the amount of wheat included in the marketing allocation for food products for consumption in the United States, and required the cost of any domestic marketing certificates issued to producers in excess of the number of certificates acquired by processors as a result of the application of the five hundred million bushel minimum or an overestimate

of the amount of wheat used during such year for food products for consumption in the United States to be borne by the Commodity Credit Corporation.

1964—Pub. L. 88-297 deleted introductory phrase "During any marketing year for which a marketing quota is in effect for wheat", reduced the national allocation percentage by the expected production on the acreage allotments for farms which will not be in compliance with the requirements of the program, and deleted provisions for wheat marketing allocations to non-commercial wheat-producing areas reasonably related to such allocations to producers in commercial wheat-producing areas.

EFFECTIVE AND TERMINATION DATES OF 1973 AMENDMENT

Section 402(b)(B) of Pub. L. 91-524, as added by section 1(9) of Pub. L. 93-86, provided in part that the amendment of subsec. (c) by section 402(b)(B)(i) to (vii) of Pub. L. 91-524, as added by section 1(9) of Pub. L. 93-86, shall be effective with respect to the 1974 through 1977 crops of wheat.

Section 402(b)(C) of Pub. L. 91-524, as added by section 1(9) of Pub. L. 93-86, provided in part that the amendment of subsecs. (d), (e), (g), and (i) by section 402(b)(C) of Pub. L. 91-524, as added by section 1(9) of Pub. L. 93-86, shall be effective for the 1974 through 1977 crops.

EFFECTIVE AND TERMINATION DATES OF 1970 AMENDMENT

Section 402 of Pub. L. 91-524 provided in part that the amendment by Pub. L. 91-524 is effective only with respect to the 1971, 1972, and 1973 crops of wheat.

EFFECTIVE DATE OF 1965 AMENDMENT

Section 502 of Pub. L. 89-321, as amended by Pub. L. 90-559, § 1(1), Oct. 11, 1968, 82 Stat. 996, provided in part that the amendment of this section by section 502 of Pub. L. 89-321 shall be effective only with respect to the crops of wheat planted for harvest in the calendar years 1966 through 1970, and the marketing years for such crops.

EFFECTIVE DATE OF 1964 AMENDMENTS

Section 202(10) of Pub. L. 88-297 provided that the amendment of this section by section 202(10) shall be effective only with respect to crops planted for harvest in 1964 and 1965.

INAPPLICABILITY TO 1974 THROUGH 1977 WHEAT CROPS OF SUBSECS. (a), (b), (f), AND (h)

Section 402(b)(A) of Pub. L. 91-524, as added by section 1(9) of Pub. L. 93-86, provided that: "Section 379b of the Agricultural Adjustment Act of 1938 (which provides for a wheat marketing certificate program) [this section] shall not be applicable to the 1974 through 1977 crops of wheat, except as provided in paragraphs (B) and (C) of this subsection [amending subsecs. (c), (d), (e), (g), and (i) of this section and section 1379c of this title]."

1970 AND SUBSEQUENT CROPS

Section 503 of Pub. L. 89-321 provided that: "Effective beginning with the 1970 crop, section 379b [this section] is amended by striking out 'normal yield of wheat for the farm as determined by the Secretary' and substituting 'projected farm yield'."

1966 AND SUBSEQUENT WHEAT CROPS

Section 202(11) of Pub. L. 88-297 provided that: "The second sentence of section 379b, effective with respect to the crops planted for harvest in the calendar year 1966 and any subsequent year, is amended by striking out 'human consumption in the United States, as food, food products, and beverages, composed wholly or partly of wheat' and substituting 'food products for consumption in the United States'."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1334, 1445a of this title.

§ 1379c. Farm acreage allotment; apportionment; acreage adjustments; reduction of allotments

(a)(1) The farm acreage allotment for each crop of wheat shall be determined as provided in this section. The Secretary shall proclaim the national acreage allotment not later than April 15 of each calendar year for the crop harvested in the next succeeding calendar year. Such national allotment shall be the number of acres he determines on the basis of the estimated national average yield for the crop for which the determination is being made will produce the quantity (less imports) that he estimates will be utilized domestically and for export during the marketing year for such crop. If the Secretary determines that carryover stocks are excessive or an increase in stocks is needed to assure a desirable carryover, he may adjust the allotment by the amount he determines will accomplish the desired decrease or increase in carryover stocks. The national acreage allotment for any crop of wheat shall be apportioned by the Secretary among the States on the basis of the apportionment to each State of the national acreage allotment for the preceding crop (1973 national domestic allotment in the case of apportionment of the 1974 national acreage allotment) adjusted to the extent deemed necessary by the Secretary to establish a fair and equitable apportionment base for each State, taking into consideration established crop rotation practices, the estimated decrease in farm acreage allotments, and other relevant factors.

(2) The State acreage allotment for wheat, less a reserve of not to exceed 1 per centum thereof for apportionment as provided in this subsection, shall be apportioned by the Secretary among the counties in the State, on the basis of the apportionment to each such county of the wheat allotment for the preceding crop, adjusted to the extent deemed necessary by the Secretary in order to establish a fair and equitable apportionment base for each county taking into consideration established crop-rotation practices, the estimated decrease in farm allotments, and other relevant factors.

(3) The farm allotment for each crop of wheat shall be determined by apportioning the county wheat allotment among farms in the county which had a wheat allotment for the preceding crop on the basis of such allotment, adjusted to reflect established crop-rotation practices and such other factors as the Secretary determines should be considered for the purpose of establishing a fair and equitable allotment. Notwithstanding any other provision of this subsection, the farm allotment shall be adjusted downward to the extent required by subsection (b) of this section.

(4) Not to exceed 1 per centum of the State allotment for any crop may be apportioned to farms for which there was no allotment for the preceding crop on the basis of the following factors: suitability of the land for production of wheat, the past experience of the farm operator in the production of wheat, the extent to which the farm operator is dependent on

income from farming for his livelihood, the production of wheat on other farms owned, operated, or controlled by the farm operator, and such other factors as the Secretary determines should be considered for the purpose of establishing fair and equitable farm allotments. No part of such reserve shall be apportioned to a farm to reflect new cropland brought into production after the date of enactment of the set-aside program for wheat.

(5) The planting on a farm of wheat of any crop for which no farm allotment was established shall not make the farm eligible for an allotment under subsection (a)(3) of this section nor shall such farm by reason of such planting be considered ineligible for an allotment under subsection (a)(4) of this section.

(6) The Secretary may make such adjustments in acreage under this chapter as he determines necessary to correct for abnormal factors affecting production, and to give due consideration to tillable acreage, crop rotation practices, types of soil, soil and water conservation measures, and topography, and in addition, in the case of conserving use acreages to such other factors as he deems necessary in order to establish a fair and equitable conserving use acreage for the farm.

(b)(1) If for any crop the total acreage of wheat planted on a farm is less than the farm allotment, the farm allotment used as a base for the succeeding crop shall be reduced by the percentage by which such planted acreage was less than such farm allotment, but such reduction shall not exceed 20 per centum of the farm allotment for the preceding crop. If no acreage has been planted to wheat for three consecutive crop years on any farm which has an allotment, such farm shall lose its allotment. Producers on any farm who have planted to wheat not less than 90 per centum of the allotment for the farm shall be considered to have planted an acreage equal to 100 per centum of such allotment. An acreage on the farm which the Secretary determines was not planted to wheat because of drought, flood, or other natural disaster or condition beyond the control of the producer shall be considered to be an acreage of wheat planted for harvest. For the purpose of this subsection, the Secretary may permit producers of wheat to have acreage devoted to soybeans, feed grains for which there is a set-aside program in effect, guar, castor beans, cotton, triticale, oats, rye, or such other crops as the Secretary may deem appropriate considered as devoted to the production of wheat to such extent and subject to such terms and conditions as the Secretary determines will not impair the effective operation of the program.

(2) Notwithstanding the provisions of subsection (b)(1) of this section, no farm allotment shall be reduced or lost through failure to plant the farm allotment, if the producer elects not to receive payments for the portion of the farm allotment not planted, to which he would otherwise be entitled under the provisions of section 1445a(c) of this title.

(Feb. 16, 1938, ch. 30, title III, § 379c, as added Sept. 27, 1962, Pub. L. 87-703, title III, § 324(2), 76 Stat. 627, and amended Apr. 11, 1964, Pub. L. 88-297, title II, § 202(12)-(14), 78 Stat. 180, 181; Aug. 6, 1965, Pub. L. 89-112, § 3, 79 Stat. 447; Nov. 3, 1965, Pub. L. 89-321, title V, §§ 508, 510(a), 513(b), (c), 515, 517, 79 Stat. 1204-1206; June 17, 1966, Pub. L. 89-451, § 3, 80 Stat. 202; Nov. 30, 1970, Pub. L. 91-524, title IV, § 402(b)(D), 84 Stat. 1364; Aug. 10, 1973, Pub. L. 93-86, § 1(9), 87 Stat. 227.)

AMENDMENTS

1973—Subsec. (a)(1). Pub. L. 91-524, § 402(b)(D), as added by Pub. L. 93-86 substituted references to a farm acreage allotment for references to the farm domestic allotment wherever appearing, struck out provisions limiting the impact of the section to the 1972 and 1973 crops of wheat, substituted "estimated national average yield for the crop for which the determination is being made will produce the quantity (less imports) that he estimates will be utilized domestically and for export during the marketing year for such crop. If the Secretary determines that carryover stocks are excessive or an increase in stocks is needed to assure a desirable carryover, he may adjust the allotment by the amount he determines will accomplish the desired decrease or increase in carryover stocks" for "estimated national yield will result in marketing certificates being issued to producers participating in the program in an amount equal to the amount of wheat which he estimates will be used for food products for consumption in the United States during the marketing year for the crop (not less than 535 million bushels)" in the provisions covering the determination of the estimated national yield, and inserted "(1973 national domestic allotment in the case of apportionment of the 1974 national acreage allotment)" preceding "adjusted to the extent deemed necessary".

Subsec. (a)(2). Pub. L. 91-524, § 402(b)(D), as added by Pub. L. 93-86 struck out "domestic" preceding "acreage allotment" and preceding "wheat allotment".

Subsec. (a)(3). Pub. L. 91-524, § 402(b)(D), as added by Pub. L. 93-86 struck out "domestic" preceding "allotment" and "wheat allotment" wherever appearing and struck out provisions establishing special requirements to be met in determining the allotment for the 1971 crop of wheat.

Subsec. (a)(4). Pub. L. 91-524, § 402(b)(D), as added by Pub. L. 93-86 struck out "domestic" preceding "allotment" wherever appearing.

Subsec. (a)(5). Pub. L. 91-524, § 402(b)(D), as added by Pub. L. 93-86 struck out "domestic" preceding "allotment" wherever appearing.

Subsec. (a)(6). Pub. L. 91-524, § 402(b)(D), as added by Pub. L. 93-86 re-enacted subsec. (a)(6) without change.

Subsec. (b)(1). Pub. L. 91-524, § 402(b)(D), as added by Pub. L. 93-86 struck out "domestic" preceding "allotment" wherever appearing and inserted ", guar, castor beans, cotton, triticale, oats, rye, or such other crops as the Secretary may deem appropriate" following "feed grains for which there is a set-aside program in effect".

Subsec. (b)(2). Pub. L. 91-524, § 402(b)(D), as added by Pub. L. 93-86 struck out "domestic" preceding "allotment" wherever appearing and substituted "payments" for "certificates" and "section 1445a(c) of this title" for "this chapter".

1970—Pub. L. 91-524 substituted provisions for the apportionment of the farm domestic allotment for each crop of wheat among the states for provisions covering the marketing certificates program.

1966—Subsec. (a). Pub. L. 89-451 substituted in the penultimate sentence "any crop for which there are marketing quotas or voluntary adjustment programs in effect" for "any other income-producing crops during such year".

1965—Subsec. (a). Pub. L. 89-321, §§ 508, 513(b), authorized the Secretary to provide for the sharing of wheat marketing certificates among producers on a fair and equitable basis even though such basis might be other than the basis of their respective shares in the wheat crop produced on the farm, provided that acreage not planted to wheat because of drought,

flood, or other natural disaster be deemed, with certain conditions, be planted for harvest for purposes of this subsection, and expanded the reference to the issuance of export marketing certificates by requiring their issuance on a pro rata basis and providing for the determination of such certificate's value per bushel.

Pub. L. 89-112 provided that the Secretary shall deem acreage on the farm which the Secretary finds was not planted to wheat for harvest in 1965 because of drought, flood, or other natural disaster, to be an actual acreage of wheat planted for harvest when that acreage was not subsequently planted to any other price supported crop for 1965.

Subsec. (b). Pub. L. 89-321, §§ 510(a), 517 substituted "projected farm yield" for "normal yield of wheat per acre established for the farm", permitted delivery to the Secretary of the wheat produced on excess acreage as an additional means of disposing of excess wheat so as to allow a producer to be deemed not to have exceeded the farm acreage allotment for wheat for purposes of this section, and provided for the disposition of wheat delivered to the Secretary and the adjustment of certificates to a producer who has produced an undesirable variety of wheat following public announcement by the Secretary of its undesirable characteristics.

Subsec. (c). Pub. L. 89-321, § 513(c), struck out provisions that the face value per bushel of export certificates shall be the amount by which the level of price support for wheat accompanied by export certificates exceeds the level of price support for noncertificate wheat.

Subsec. (e). Pub. L. 89-321, § 515, added subsec. (e).

1964—Subsec. (a). Pub. L. 88-297, § 202(12), inserted "under subsection (b) of this section or" following "stored" in the second sentence, added to such sentence provision for reduction of wheat marketing certificates from amount of export certificates, and added provision for issuance of domestic marketing certificates for wheat used for domestic consumption and export marketing certificates for wheat used for export.

Subsec. (b). Pub. L. 88-297, § 202(13), authorized producers who exceeded their wheat allotments to store their excess wheat in accordance with regulations issued by the Secretary and be eligible for wheat marketing certificates, prohibited wheat stored under this provision from being removed from storage until a subsequent year when acreage allotment was underplanted or the production on the acreage allotment was less than normal, required the producer (for removal of the wheat contrary to these conditions) to pay an amount one and one-half times the value of the wheat marketing certificates issued with respect to the farm for the year in which the wheat on the acreage in excess of the allotment was produced, and made producers who exceeded their allotment and stored their excess wheat ineligible for diversion payments.

Subsec. (c). Pub. L. 88-297, § 202(14), deleted the introductory phrase "Whenever a wheat marketing allocation program is in effect for any marketing year" from the first sentence, substituted in such sentence "each marketing year" for "such marketing year", inserted in such sentence "wheat" preceding "marketing certificates", substituted in the second sentence "domestic certificates shall be the amount" for "marketing certificates shall be equal to the amount" and "domestic certificates" for "certificates" preceding "exceeds", and added to such sentence provision for face value per bushel of export certificates.

EFFECTIVE AND TERMINATION DATES OF 1973 AMENDMENT

Section 402(b)(D) of Pub. L. 91-524, as added by section 1(9) of Pub. L. 93-86, provided in part that the amendment by section 402(b)(D) of Pub. L. 91-524, as added by section 1(9) of Pub. L. 93-86, shall be effective only with respect to the 1974 through 1977 crops of wheat.

EFFECTIVE AND TERMINATION DATES OF 1970 AMENDMENT

Section 402 of Pub. L. 91-524 provided in part that the amendment by Pub. L. 91-524 is effective only with respect to the 1971, 1972, and 1973 crops of wheat.

EFFECTIVE DATE OF 1965 AMENDMENT

Section 508 of Pub. L. 89-321 provided in part that the amendment of subsec. (a) of this section shall be effective beginning with the crop planted for harvest in the calendar year 1966.

Section 510(a) of Pub. L. 89-321 provided in part that the amendment made by section 510(a) to subsec. (b) of this section was effective beginning with the 1966 crop.

Section 515 of Pub. L. 89-321 provided in part that subsec. (e) shall be effective beginning with the crop planted for harvest in the calendar year 1964.

EFFECTIVE DATE OF 1964 AMENDMENT

Section 202(13) of Pub. L. 89-297, as amended by Pub. L. 89-321, title V, § 505(2), Nov. 3, 1965, 79 Stat. 1203; Pub. L. 90-559, § 1(1), Oct. 11, 1968, 82 Stat. 996, provided that the amendment of subsec. (b) of this section by section 202(13) shall be effective with respect to the crops planted for harvest in the calendar years 1965 through 1970.

REDUCTION OF WHEAT STORED BY PRODUCERS PRIOR TO THE 1971 CROP

Section 407 of Pub. L. 91-524, as amended by section 1(14) of Pub. L. 93-86, provided that: "The amount of any wheat stored by a producer under section 379c(b) of the Agricultural Adjustment Act of 1938, as amended [subsection (b) of this section], prior to the 1971 crop of wheat may be reduced by the amount by which the actual total production of the 1971, 1972, or 1973 crop on the farm is less than the number of bushels determined by multiplying three times the domestic allotment for such crop on the farm by the yield established for the farm for the purpose of issuance of domestic marketing certificates. The provisions of such section shall continue to apply to the wheat so stored to the extent not inconsistent therewith. Notwithstanding the foregoing, the Secretary may authorize release of wheat stored by a producer under section 379c(b) of the Agricultural Adjustment Act of 1938, as amended [subsec. (b) of this section], prior to the 1971 crop, whenever he determines such release will not significantly affect market prices for wheat. As a condition of release, the Secretary may require a refund of such portion of the value of certificates received in the crop year the excess wheat was produced as he deems appropriate considering the period of time the excess wheat has been in storage and the need to provide fair and equitable treatment among all wheat program participants."

§ 1379d. Marketing restrictions

(a) Transfers of certificates; purchases by Commodity Credit Corporation

Marketing certificates shall be transferable only in accordance with regulations prescribed by the Secretary. Any unused certificates legally held by any person shall be purchased by Commodity Credit Corporation if tendered to the Corporation for purchase in accordance with regulations prescribed by the Secretary.

(b) Processor and exporter acquisition of domestic and export certificates; international trade, expansion; refunds or credits for certificates; exemptions from requirements

During any marketing year for which a wheat marketing allocation program is in effect, (i) all persons engaged in the processing of wheat into food products shall, prior to marketing any

such food product or removing such food product for sale or consumption, acquire domestic marketing certificates equivalent to the number of bushels of wheat contained in such product and (ii) all persons exporting wheat shall, prior to such export, acquire export marketing certificates equivalent to the number of bushels so exported. The cost of the export marketing certificates per bushel to the exporter shall be that amount determined by the Secretary on a daily basis which would make United States wheat and wheat flour generally competitive in the world market, avoid disruption of world market prices, and fulfill the international obligations of the United States. The Secretary may exempt from the requirements of this subsection wheat exported for donation abroad and other noncommercial exports of wheat, wheat processed for use on the farm where grown, wheat produced by a State or agency thereof and processed for use by the State or agency thereof, wheat processed for donation, and wheat processed for uses determined by the Secretary to be noncommercial. Such exemptions may be made applicable with respect to any wheat processed or exported beginning July 1, 1964. There shall be exempt from the requirements of this subsection beverage distilled from wheat prior to July 1, 1964. A beverage distilled from wheat after July 1, 1964, shall be deemed to be removed for sale or consumption at the time it is placed in barrels for aging except that upon the giving of a bond as prescribed by the Secretary, the purchase of and payment for such marketing certificates as may be required may be deferred until such beverage is bottled for sale. Wheat shipped to a Canadian port for storage in bond, or storage under a similar arrangement, and subsequent exportation, shall be deemed to have been exported for purposes of this subsection when it is exported from the Canadian port. Marketing certificates shall be valid to cover only sales or removals for sale or consumption or exportations made during the marketing year with respect to which they are issued, and after being once used to cover a sale or removal for sale or consumption or export of a food product or an export of wheat shall be void and shall be disposed of in accordance with regulations prescribed by the Secretary. Notwithstanding the foregoing provisions hereof, the Secretary may require marketing certificates issued for any marketing year to be acquired to cover sales, removals, or exportations made on or after the date during the calendar year in which wheat harvested in such calendar year begins to be marketed as determined by the Secretary even though such wheat is marketed prior to the beginning of the marketing year, and marketing certificates for such marketing year shall be valid to cover sales, removals, or exportations made on or after the date so determined by the Secretary. Whenever the face value per bushel of domestic marketing certificates for a marketing year is different from the face value of domestic marketing certificates for the preceding marketing year, the Secretary may require marketing certificates issued for the preceding marketing year to be acquired to cover all wheat processed into food products during such preceding marketing year even though the food product may be marketed or removed for sale or consumption after the end of the marketing year.

(c) Undertaking to secure marketing of commodity without certificate

Upon the giving of a bond or other undertaking satisfactory to the Secretary to secure the purchase of and payment for such marketing certificates as may be required, and subject to such regulations as he may prescribe, any person required to have marketing certificates in order to market or export a commodity may be permitted to market any such commodity without having first acquired marketing certificates.

(d) "Food products" defined; exemption of flour second clears

As used in this part, the term "food products" means flour (excluding flour second clears not used for human consumption as determined by the Secretary), semolina, farina, bulgur, beverage, and any other product composed wholly or partly of wheat which the Secretary may determine to be a food product. The Secretary may at his election administer the exemption for wheat processed into flour second clears through refunds either to processors of such wheat or to the users of such clears. For the purpose of such refunds, the wheat equivalent of flour second clears may be determined on the basis of conversion factors authorized by section 1379f of this title, even though certificates had been surrendered on the basis of the weight of the wheat.

(Feb. 16, 1938, ch. 30, title III, § 379d, as added Sept. 27, 1962, Pub. L. 87-703, title III, § 324(2), 76 Stat. 628, and amended Apr. 11, 1964, Pub. L. 88-297, title II, § 202(15)-(17), 78 Stat. 181, 182; Nov. 3, 1965, Pub. L. 89-321, title V, §§ 504 (a)-(c), 513(a), 79 Stat. 1202, 1203, 1205; Nov. 30, 1970, Pub. L. 91-524, title IV, § 403(a)(1), (2), 84 Stat. 1366.)

REFERENCES IN TEXT

This part, referred to in subsec. (d), commences with section 1379a of this title.

CODIFICATION

The words "any marketing year for which a wheat marketing allocation program is in effect" were substituted for "each marketing year" in the first sentence of subsec. (b) and the last sentence of subsec. (b) reading "Not withstanding the foregoing, the Secretary is authorized, to temporarily suspend the requirement for export marketing certificates for the period beginning July 1, 1971, and ending June 30, 1974" was omitted pursuant to Pub. L. 91-524 § 403(a) set out under this section as a note entitled "Effective and Termination Dates of 1970 Amendment".

AMENDMENTS

1970—Subsec. (b). Pub. L. 91-524 struck out provision limiting the section to only those marketing years for which a wheat marketing allocation program is in effect and added provisions authorizing the Secretary to temporarily suspend the requirement for export marketing certificates for the period beginning July 1, 1971, and ending June 30, 1974.

1965—Subsec. (b). Pub. L. 89-321, §§ 504(a), (c), 513(a), among other changes, amended the second sentence, and also authorized the Secretary to exempt from the requirements of this subsection wheat produced by a State or agency thereof and processed for use by the State or agency thereof, wheat processed

for donations, and wheat processed for uses determined by the Secretary to be noncommercial, permitted exemptions to be made applicable with respect to any wheat processed or exported beginning July 1, 1964, exempted from the requirements of this subsection beverage distilled from wheat prior to July 1, 1964, required beverage distilled from wheat after July 1, 1964, to be deemed as being removed for sale or consumption at the time it is placed in barrels for aging, permitted upon the giving of a bond as prescribed by the Secretary, the purchase of and payment for such marketing certificates as may be required to be deferred until such beverage is bottled for sale, required wheat shipped to a Canadian port for storage in bond, or storage under a similar arrangement, and subsequent exportation, to be deemed as having been exported for purposes of this subsection when it is exported from the Canadian port, and, whenever the face value per bushel of domestic marketing certificates for a marketing year is different from the face value of domestic marketing certificates for the preceding marketing year, empowered the Secretary to require marketing certificates issued for the preceding marketing year to be acquired to cover all wheat processed into food products during such preceding marketing year even though the food product may be marketed or removed for sale or consumption after the end of the marketing year.

Subsec. (d). Pub. L. 89-321, § 504(b), excluded four second clears not used for human consumption from the term "food products", authorized the Secretary at his election to administer the exemption for wheat processed into flour second clears through refunds either to processors of such wheat or to the users of such clears, and permitted, for the purpose of such refunds, the wheat equivalent of flour second clears to be determined on the basis of conversion factors authorized by section 1379f of this title, even though certificates had been surrendered on the basis of the weight of the wheat.

1964—Subsec. (a). Pub. L. 88-297, § 202(15), deleted provisions prohibiting persons from acquiring marketing certificates from the producer to whom such certificates were issued, unless such certificates were acquired in connection with acquisition from such producer of a number of bushels of wheat equivalent to the marketing certificates and authorizing the CCC to purchase from producers certificates not accompanied by wheat in cases where the Secretary determined that it would constitute an undue hardship to require the producer to transfer his certificates only in connection with the disposition of wheat and substituted "by any person" for "by persons other than the producer to whom such certificates are issued".

Subsec. (b). Pub. L. 88-297, § 202(16), substituted in clause (i) "marketing any such food product or removing such food product for sale or consumption" for "marketing any such product for human food in the United States" and inserted in such clause (i) "domestic" preceding "marketing certificates"; deleted from clause (ii) "or food products" following "wheat" and inserted in such clause (ii) "export" preceding "marketing certificates"; inserted references to removals for sale or consumption in two other instances and to removals in two instances to make it clear that certificates were required on all wheat processed into food products whether sold, removed for sale, or removed for consumption; required the CCC to refund to the exporter such part of the cost of the certificate as the Secretary determined would make United States wheat and wheat flour generally competitive in the world market, avoid disruption of world market prices, and fulfill the international obligations of the United States; and authorized the Secretary to exempt from the requirement to have marketing certificates, wheat which was donated abroad and wheat processed for use on the farm where grown.

Subsec. (d). Pub. L. 88-297, § 202(17), redefined "food products" to mean flour, semolina, farina, bulgur, beverage, and any other product composed wholly or partly of wheat which the Secretary may determine to be a food product instead of any product composed wholly or partly of wheat to be used for human consumption, including beverage.

EFFECTIVE AND TERMINATION DATES OF 1970 AMENDMENT

Section 403(a) of Pub. L. 91-524 provided in part that the amendment by Pub. L. 91-524 is effective only with respect to the marketing years beginning July 1, 1971, July 1, 1972, and July 1, 1973.

EFFECTIVE DATE OF 1965 AMENDMENT

Section 504(a) of Pub. L. 89-321 provided in part that the amendment of subsec. (b) of this section by section 504(a) of Pub. L. 89-321 shall be effective November 3, 1965.

Section 504(b) of Pub. L. 89-321 provided in part that: "This subsection [amending subsec. (d) of this section] shall be effective as to products sold, or removed for sale or consumption on or after sixty days following enactment of this Act [Nov. 3, 1965], unless the Secretary shall by regulation designate an earlier effective date within such sixty-day period."

INAPPLICABILITY TO WHEAT PROCESSED OR EXPORTED DURING THE PERIOD JULY 1, 1973 THROUGH JUNE 30, 1978

Section 403(b) of Pub. L. 91-524, as added by section 1(10) of Pub. L. 93-86, Aug. 10, 1973, 87 Stat. 228, provided in part that: "Sections 379d, 379e, 379f, 379g, 379h, 379i, and 379j of the Agricultural Adjustment Act of 1938 [this section and sections 1379e, 1379f, 1379g, 1379h, 1379i and 1379j of this title] (which deal with marketing certificate requirements for processors and exporters) shall not be applicable to wheat processed or exported during the period July 1, 1973 through June 30, 1978."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1379g, 1379i of this title.

§ 1379e. Assistance in purchase and sale of marketing certificates; regulations; administrative expenses; interest

For the purpose of facilitating the purchase and sale of marketing certificates, the Commodity Credit Corporation is authorized to issue, buy, and sell marketing certificates in accordance with regulations prescribed by the Secretary. Such regulations may authorize the Corporation to issue and sell certificates in excess of the quantity of certificates which it purchases. Such regulations may authorize the Corporation in the sale of marketing certificates to charge, in addition to the face value thereof, an amount determined by the Secretary to be appropriate to cover estimated administrative costs in connection with the purchase and sale of the certificates and estimated interest incurred on funds of the Corporation invested in certificates purchased by it.

(Feb. 16, 1938, ch. 30, title III, § 379e, as added Sept. 27, 1962, Pub. L. 87-703, title III, § 324(2), 76 Stat. 628, and amended Nov. 3, 1965, Pub. L. 89-321, title V, § 516, 79 Stat. 1206; Oct. 11, 1968, Pub. L. 90-559, § 1(6), 82 Stat. 996; Nov. 30, 1970, Pub. L. 91-524, title IV, § 403(a)(3), 84 Stat. 1366.)

CODIFICATION

The penultimate sentence directing the Commodity Credit Corporation to sell marketing certificates for the marketing years for the 1966 through 1970 wheat crops to persons processing food products at the face value thereof less any amount by which price support

for wheat accompanied by domestic certificates exceeded $2 per bushel was omitted as executed.

The last sentence directing the Commodity Credit Corporation to sell marketing certificates for the marketing years for the 1971, 1972, and 1973 crops of wheat to persons processing food products and in determining the cost to processors that the face value would be 75 cents per bushel was omitted pursuant to Pub. L. 91-524, § 403(a), set out under this section as a note entitled "Effective and Termination Dates of 1970 Amendment".

AMENDMENTS

1970—Pub. L. 91-524 directed the Commodity Credit Corporation to sell marketing certificates for the marketing years for the 1971, 1972, and 1973 crops of wheat to persons engaged in the processing of food products but directed that, in determining the cost to processors of food products, the face value be 75 cents per bushel.

1968—Pub. L. 90-559 provided for a one year extension of period for sale of marketing certificates, substituting "1966 through the 1970" for "1966 through the 1969" wheat crops.

1965—Pub. L. 89-321 required the Commodity Credit Corporation to sell marketing certificates for the marketing years for the 1966 through the 1969 wheat crops to persons engaged in the processing of food products at the face value thereof less any amount by which price support for wheat accompanied by domestic certificates exceeds $2 per bushel.

EFFECTIVE AND TERMINATION DATES OF 1970 AMENDMENT

Section 403(a) of Pub. L. 91-524 provided in part that the amendment by Pub. L. 91-524 is effective only with respect to the marketing years beginning July 1, 1971, July 1, 1972, and July 1, 1973.

INAPPLICABILITY TO WHEAT PROCESSED OR EXPORTED DURING THE PERIOD JULY 1, 1973 THROUGH JUNE 30, 1978

Section not applicable to wheat processed or exported during the period July 1, 1973 through June 30, 1978, see section 403(b) of Pub. L. 91-524, as added by section 1(10) of Pub. L. 93-86, Aug. 10, 1973, 87 Stat. 228, set out as a note under section 1379d of this title.

§ 1379f. Conversion factors

The Secretary shall establish conversion factors which shall be used to determine the amount of wheat contained in any food product. The conversion factor for any such food product shall be determined upon the basis of the weight of wheat used in the manufacture of such product.

(Feb. 16, 1938, ch. 30, title III, § 379f, as added Sept. 27, 1962, Pub. L. 87-703, title III, § 324(2), 76 Stat. 629.)

INAPPLICABILITY TO WHEAT PROCESSED OR EXPORTED DURING THE PERIOD JULY 1, 1973 THROUGH JUNE 30, 1978

Section not applicable to wheat processed or exported during the period July 1, 1973 through June 30, 1978, see section 403(b) of Pub. L. 91-524, as added by section 1(10) of Pub. L. 93-86, Aug. 10, 1973, 87 Stat. 228, set out as a note under section 1379d of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1379d of this title.

§ 1379g. Authority to facilitate transition

(a) The Secretary is authorized to take such action as he determines to be necessary to facilitate the transition from the program currently in effect to the program provided for in this part. Notwithstanding any other provision of this part, such authority shall include, but shall not be limited to, the authority to exempt all or a portion of the wheat or food products made therefrom in the channels of trade on the effective date of the program under this part from the marketing restrictions in subsection (b) of section 1379d of this title, or to sell certificates to persons owning such wheat or food products at such prices as the Secretary may determine. Any such certificate shall be issued by Commodity Credit Corporation.

(b) Whenever the face value per bushel of domestic marketing certificates for a marketing year is substantially different from the face value of domestic marketing certificates for the preceding marketing year, the Secretary is authorized to take such action as he determines necessary to facilitate the transition between marketing years. Notwithstanding any other provision of this part, such authority shall include, but shall not be limited to, the authority to sell certificates to persons engaged in the processing of wheat into food products covering such quantities of wheat, at such prices, and under such terms and conditions as the Secretary may by regulation provide. Any such certificate shall be issued by Commodity Credit Corporation.

(c) The Secretary is authorized to take such action as he determines to be necessary to facilitate the transition from the certificate program provided for under section 1379d of this title to a program under which no certificates are required. Notwithstanding any other provision of law, such authority shall include, but shall not be limited to the authority to exempt all or a portion of wheat or food products made therefrom in the channels of trade on July 1, 1973, from the marketing restrictions in subsection (b) of section 1379d of this title, or to sell certificates to persons owning such wheat or food products made therefrom at such price and under such terms and conditions as the Secretary may determine. Any such certificate shall be issued by the Commodity Credit Corporation. Nothing herein shall authorize the Secretary to require certificates on wheat processed after June 30, 1973.

(Feb. 16, 1938, ch. 30, title III, § 379g as added Sept. 27, 1962, Pub. L. 87-703, title III, § 324(2), 76 Stat. 629, and amended Nov. 3, 1965, Pub. L. 89-321, title V, § 504(d), 79 Stat. 1203; Nov. 30, 1970, Pub. L. 91-524, title IV, § 403(b), as added Aug. 10, 1973, Pub. L. 93-86, § 1(10), 87 Stat. 228.)

REFERENCES IN TEXT

This part, referred to in subsecs. (a) and (b), commences with section 1379a of this title.

AMENDMENTS

1973—Subsec. (c). Pub. L. 91-524, § 403(b), as added by Pub. L. 93-86, added subsec. (c).

1965—Pub. L. 89-321 designated existing provisions as subsec. (a) and added subsec. (b).

INAPPLICABILITY TO WHEAT PROCESSED OR EXPORTED DURING THE PERIOD JULY 1, 1973 THROUGH JUNE 30, 1978

Section not applicable to wheat processed or exported during the period July 1, 1973 through June 30,

1978, see section 403(b) of Pub. L. 91-524, as added by section 1(10) of Pub. L. 93-86, set out as a note under section 1379d of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1379a, 1379b, 1379d, 1379h, 1379i, 1379j of this title.

§ 1379h. Applicability of provisions to designated persons; reports and records; examinations by the Secretary

This section shall apply to processors of wheat, warehousemen and exporters of wheat and food products, and all persons purchasing, selling, or otherwise dealing in wheat marketing certificates. Any such person shall, from time to time on request of the Secretary, report to the Secretary such information and keep such records as the Secretary finds to be necessary to enable him to carry out the provisions of this part. Such information shall be reported and such records shall be kept in such manner as the Secretary shall prescribe. For the purpose of ascertaining the correctness of any report made or record kept, or of obtaining information required to be furnished in any report, but not so furnished, the Secretary is authorized to examine such books, papers, records, accounts, correspondence, contracts, documents, and memorandums as he has reason to believe are relevant and are within the control of such person.

(Feb. 16, 1938, ch. 30, title III, § 379h, as added Sept. 27, 1962, Pub. L. 87-703, title III, § 324(2), 76 Stat. 629.)

REFERENCES IN TEXT

This part, referred to in text, commences with section 1379a of this title.

INAPPLICABILITY TO WHEAT PROCESSED OR EXPORTED DURING THE PERIOD JULY 1, 1973 THROUGH JUNE 30, 1978

Section not applicable to wheat processed or exported during the period July 1, 1973 through June 30, 1978, see section 403(b) of Pub. L. 91-524, as added by section 1(10) of Pub. L. 93-86, Aug. 10, 1973, 87 Stat. 228, set out as a note under section 1379d of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1379i of this title.

§ 1379i. Penalties

(a) Forfeitures; amount; civil action

Any person who knowingly violates or attempts to violate or who knowingly participates or aids in the violation of any of the provisions of subsection (b) of section 1379d of this title shall forfeit to the United States a sum equal to two times the face value of the marketing certificates involved in such violation. Such forfeiture shall be recoverable in a civil action brought in the name of the United States.

(b) Misdemeanors; punishment

Any person, except a producer in his capacity as a producer, who knowingly violates or attempts to violate or who knowingly participates or aids in the violation of any provision of this part, or of any regulation, governing the acquisition, disposition, or handling of marketing certificates or who knowingly fails to make any report or keep any record as required by section 1379h of this title shall be deemed guilty of a misdemeanor and upon conviction thereof shall be subject to a fine of not more than $5,000 for each violation.

(c) Forfeiture of right to receive certificates; payment of face value

Any person who, in his capacity as a producer, knowingly violates or attempts to violate or participates or aids in the violation of any provision of this part, or of any regulation, governing the acquisition, disposition, or handling of marketing certificates or fails to make any report or keep any record as required by section 1379h of this title shall, (i) forfeit any right to received marketing certificates, in whole or in part as the Secretary may determine, with respect to the farm or farms and for the marketing year with respect to which any such act or default is committed, or (ii), if such marketing certificates have already been issued, pay to the Secretary, upon demand, the amount of the face value of such certificates, or such part thereof as the Secretary may determine. Such determination by the Secretary with respect to the amount of such marketing certificates to be forfeited or the amount to be paid by such producer shall take into consideration the circumstances relating to the act or default committed and the seriousness of such act or default.

(d) Felonies; punishment

Any person who falsely makes, issues, alters, forges, or counterfeits any marketing certificate, or with fraudulent intent possesses, transfers, or uses any such falsely made, issued, altered, forged, or counterfeited marketing certificate, shall be deemed guilty of a felony and upon conviction thereof shall be subject to a fine of not more than $10,000 or imprisonment of not more than ten years, or both.

(Feb. 16, 1938, ch. 30, title III, § 379i, as added Sept. 27, 1962, Pub. L. 87-703, title III, § 324(2), 76 Stat. 629, and amended Nov. 3, 1965, Pub. L. 89-321, title V, § 510(b), 79 Stat. 1205.)

REFERENCES IN TEXT

This part, referred to in subsecs. (b) and (c), commences with section 1379a of this title.

AMENDMENTS

1965—Subsec. (a). Pub. L. 89-321 inserted "knowingly" after "who" wherever appearing.

Subsec. (b). Pub. L. 89-321 inserted "knowingly" after "who" wherever appearing.

EFFECTIVE DATE OF 1965 AMENDMENT

Section 510(b) of Pub. L. 89-321 provided in part that the amendments of subsecs. (a) and (b) of this section shall be effective as of the effective date of the original enactment of this section [section 1379i of this title].

INAPPLICABILITY TO WHEAT PROCESSED OR EXPORTED DURING THE PERIOD JULY 1, 1973 THROUGH JUNE 30, 1978

Section not applicable to wheat processed or exported during the period July 1, 1973 through June 30, 1978, see section 403(b) of Pub. L. 91-524, as added by section 1(10) of Pub. L. 93-86, Aug. 10, 1973, 87 Stat. 228, set out as a note under section 1379d of this title.

CROSS REFERENCES

Felony and misdemeanor defined, see section 1 of Title 18, Crimes and Criminal Procedure.

Fines, penalties and forfeitures—
Generally, see section 2461 et seq. of Title 28, Judiciary and Judicial Procedure.
Jurisdiction of district courts of actions for recovery of, see section 1355 of Title 28.
United States as party generally, see section 2401 et seq. of Title 28.
United States as plaintiff, jurisdiction of district courts, see section 1345 of Title 28.

§ 1379j. Regulations

The Secretary shall prescribe such regulations as may be necessary to carry out the provisions of this part including but not limited to regulations governing the acquisition, disposition, or handling of marketing certificates.

(Feb. 16, 1938, ch. 30, title III, § 379j, as added Sept. 27, 1962, Pub. L. 87-703, title III, § 324(2), 76 Stat. 629.)

REFERENCES IN TEXT

This part, referred to in text, commences with section 1379a of this title.

INAPPLICABILITY TO WHEAT PROCESSED OR EXPORTED DURING THE PERIOD JULY 1, 1973 THROUGH JUNE 30, 1978

Section not applicable to wheat processed or exported during the period July 1, 1973 through June 30, 1978, see section 403(b) of Pub. L. 91-524, as added by section 1(10) of Pub. L. 93-86, Aug. 10, 1973, 87 Stat. 228, set out as a note under section 1379d of this title.

PART E—RICE CERTIFICATES

AMENDMENTS

1962—Pub. L. 87-703, title III, § 324(1), Sept. 27, 1962, 76 Stat. 626, redesignated D as E.

§ 1380a. Legislative findings

The movement of rice from producer to consumer is preponderantly in interstate and foreign commerce, and the small quantity of rice which does not move in interstate or foreign commerce affects such commerce. In order to provide an adequate and balanced flow of rice in interstate and foreign commerce and to assure consumers an adequate and steady supply of rice at fair prices it is necessary to regulate all commerce in rice in the manner provided in this part. These findings are supplemental to and in addition to the findings contained in section 1351 of this title.

(Feb. 16, 1938, ch. 30, title III, § 380a, as added May 28, 1956, ch. 327, title V, § 501(3), 70 Stat. 208.)

§ 1380b. Effective date and termination of program

Sections 1380c through 1380g(c) of this title shall be effective beginning with the first crop of rice, subsequent to the 1956 crop and prior to the 1959 crop, for which the Secretary determines and proclaims that the initiation of a program under this part is administratively feasible and in the best interests of rice producers and the United States. Unless extended by law, the provisions of this part shall not apply to rice of any crop following the second crop for which a program is in effect under sections 1380c and 1380g(c) of this title.

(Feb. 16, 1938, ch. 30, title III, § 380b, as added May 28, 1956, ch. 327, title V, § 501(3), 70 Stat. 208.)

§ 1380c. Primary market quota for rice

Not later than December 31 of each year, the Secretary shall determine and proclaim the primary market quota for rice for the marketing year beginning in the next calendar year. The primary market quota shall be the number of hundred weights of rice (on a rough rice basis) which the Secretary determines will be consumed in the United States (including its Territories and possessions and the Commonwealth of Puerto Rico) or exported to Cuba, during such marketing year. In making this determination the Secretary shall consider the historical consumption in these markets of rice produced in the United States and any expected enlargement in such consumption predicated upon population trends, increased per capita consumption, and other relevant factors.

(Feb. 16, 1938, ch. 30, title III, § 380c, as added May 28, 1956, ch. 327, title V, § 501(3), 70 Stat. 208.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1380b, 1380f, 1380h, 1380i, 1380j, 1380k, 1380*l* of this title.

§ 1380d. Apportionment of primary market quota

(a) The primary market quota for rice shall be apportioned by the Secretary among the several States on the basis of the average yield per acre of rice in each State during the three years immediately preceding the year for which the quota is proclaimed (or in the case of the apportionment for 1957, during the two years preceding such year) multiplied by the acreage allotment of such State for such year.

(b) The State primary market quota shall be apportioned by the Secretary among farms on the basis of the acreage allotment established for each farm multiplied by the normal yield per acre for the farm.

(Feb. 16, 1938, ch. 30, title III, § 380d, as added May 28, 1956, ch. 327, title V, § 501(3), 70 Stat. 209.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1380b, 1380f, 1380h, 1380i, 1380j, 1380k, 1380*l* of this title.

§ 1380e. Review of primary market quota

Notice of the primary market quota shall be mailed to the operator of the farm to which such quota applies. The farm operator may have such quota reviewed in accordance with the provisions of sections 1363 to 1368, inclusive, of this title.

(Feb. 16, 1938, ch. 30, title III, § 380e, as added May 28, 1956, ch. 327, title V, § 501(3), 70 Stat. 209.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1380b, 1380f, 1380h, 1380i, 1380j, 1380k, 1380*l* of this title.

§ 1380f. Price support to cooperators

(a) Notwithstanding any other provision of law, the Commodity Credit Corporation shall make price support available to cooperators through loans, purchases, or other operations on any crop of rice for which a program is in

effect under sections 1380c through 1380g(c) of this title at such level, not less than 50 per centum or more than 90 per centum of the parity price therefor, as the Secretary determines will not discourage or prevent the exportation of rice produced in the United States.

(b) Section 101 of the Agricultural Act of 1949, as amended [7 U.S.C. 1441], shall not apply to price support made available on rice of any crop to which this section is applicable, but all the other provisions of such Act [7 U.S.C. 1421 et seq.], to the extent not inconsistent with this part, shall apply to price support operations carried out under this section.

(Feb. 16, 1938, ch. 30, title III, § 380f, as added May 28, 1956, ch. 327, title V, § 501(3), 70 Stat. 209.)

REFERENCES IN TEXT

Such Act, referred to in subsec. (b), is the Agricultural Act of 1949, act Oct. 31, 1949, ch. 792, 63 Stat. 1051, which is classified generally to chapter 35A (§ 1421 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1421 of this title and Table volume.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1380b, 1380h, 1380i, 1380j, 1380k, 1380*l* of this title.

§ 1380g. Certificates

(a) Issuance

The Secretary of Agriculture shall for each marketing year issue certificates to cooperators for a quantity of rice equal to the primary marketing quota for the farm for such marketing year, but not exceeding the normal yield of the acreage planted to rice on the farm. The certificate shall have the value specified in subsection (e) of this section.

(b) Share of landlord, tenants, and sharecroppers

The landlord, tenants, and sharecroppers on the farm shall share in the certificates issued with respect to the farm in the same proportion as they share in the rice produced on the farm or the proceeds therefrom.

(c) Applicability of other laws

The provisions of section 1385 of this title shall be applicable to certificates issued to producers under this section.

(d) Issuance and sale to persons engaged in processing of rough rice or importing of processed rice

The Commodity Credit Corporation shall issue and sell certificates to persons engaged in the processing of rough rice or the importing of processed rice. Each such certificate shall be sold for an amount equal to the value thereof, as specified in subsection (e) of this section.

(e) Value; redemption

The value of each certificate issued under this section shall be equal to the difference between 90 per centum of the parity price of rice as of the beginning of the marketing year for which the certificate is issued and the level of price support for rice which is in effect during such marketing year, calculated to the nearest cent, multiplied by the quantity of rice for which the certificate is issued. Any certificates not used to cover the processing of rice or the importation of processed rice pursuant to sections 1380k and 1380*l* of this title shall be redeemed by the Commodity Credit Corporation at the value thereof.

(Feb. 16, 1938, ch. 30, title III, § 380g, as added May 28, 1956, ch. 327, title V, § 501(3), 70 Stat. 209.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1380b, 1380f, 1380h, 1380i, 1380j, 1380k, 1380*l* of this title.

§ 1380h. Inventory adjustment payments; appropriations

To facilitate the transition from the price support program currently in effect to the program provided for in this part, the Commodity Credit Corporation shall make inventory adjustment payments to all persons owning rough rice located in the continental United States as of the beginning of the marketing year for the first crop of rice for which a program is in effect under sections 1380c through 1380g(c) of this title: *Provided, however,* That such payments shall not be made with respect to rice of such crop, imported rice, or rice acquired from Commodity Credit Corporation. The amount of such payment per hundredweight shall be the amount by which the estimated average price paid producers during the marketing year for the preceding crop exceeds the estimated average support price for the first crop for which a program is made effective. There are authorized to be appropriated such sums as may be necessary to make payment to Commodity Credit Corporation for expenditures pursuant to this section.

(Feb. 16, 1938, ch. 30, title III, § 380h, as added May 28, 1956, ch. 327, title V, § 501(3), 70 Stat. 210.)

§ 1380i. Rice set-aside

All rough and processed rice in the inventories of Commodity Credit Corporation as of sixty days after the beginning of the marketing year for the first crop for which a program is in effect under sections 1380c through 1380g(c) of this title, not exceeding twenty million hundred-weight of rough rice or its equivalent in processed rice may be transferred to and be made a part of the commodity set-aside of rice established pursuant to section 1741 of this title.

(Feb. 16, 1938, ch. 30, title III, § 380i, as added May 28, 1956, ch. 327, title V, § 501(3), 70 Stat. 210.)

§ 1380j. Exemptions

The provisions of this part shall not apply to nonirrigated rice produced on any farm on which the acreage planted to nonirrigated rice does not exceed three acres, and the provisions of section 1380c through 1380g(c) of this title shall not apply to rice produced in Puerto Rico or Hawaii.

(Feb. 16, 1938, ch. 30, title III, § 380j, as added May 28, 1956, ch. 327, title V, § 501(3), 70 Stat. 210.)

§ 1380k. Processing restrictions

(a) Acquisition of certificates

Each person who on or after the beginning of the marketing year for the first crop for which a program is in effect under sections 1380c through 1380g(c) of this title, engages in the processing of rough rice in the United States shall, upon processing any quantity of rough rice, acquire certificates issued under section 1380g of this title in an amount sufficient to cover such quantity of rough rice.

(b) Applicability to processing in Puerto Rico or Hawaii of rough rice

The requirements of subsection (a) of this section shall not be applicable to the processing in Puerto Rico or Hawaii of rough rice grown in Puerto Rico or Hawaii, respectively.

(c) Payments to exporters

Upon the exportation from the United States to any country other than Cuba of any processed rice with respect to which certificates were acquired in accordance with the requirements of subsection (a) of this section or section 1380*l* of this title, the Commodity Credit Corporation shall pay to the exporter an amount equal to the value of the certificates for the rough rice equivalent of such processed rice.

(Feb. 16, 1938, ch. 30, title III, § 380k, as added May 28, 1956, ch. 327, title V, § 501(3), 70 Stat. 210.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1380g, 1380n of this title.

§ 1380*l*. Import restrictions

Each person who, on or after the beginning of the marketing year for the first crop for which a program is in effect under sections 1380c of this title through 1380g(c) of this title, imports processed rice into the United States shall acquire certificates issued under section 1380g of this title covering the rough rice equivalent of such processed rice.

(Feb. 16, 1938, ch. 30, title III, § 380*l*, as added May 28, 1956, ch. 327, title V, § 501(3), 70 Stat. 211.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1380g, 1380k, 1380n of this title.

§ 1380m. Regulations

The Secretary shall prescribe regulations governing the issuance, redemption, acquisition, use, transfer, and disposition of certificates hereunder.

(Feb. 16, 1938, ch. 30, title III, § 380m, as added May 28, 1956, ch. 327, title V, § 501(3), 70 Stat. 211.)

§ 1380n. Penalties

Any person who violates or attempts to violate, or who participates or aids in the violation of, any of the provisions of sections 1380k or 1380*l* of this title, or regulations prescribed by the Secretary for the enforcement of such provisions, shall forfeit to the United States a sum equal to three times the market value, at the time of the commission of such act, of the product involved in such violation. Such forfeiture shall be recoverable in a civil suit brought in the name of the United States.

(Feb. 16, 1938, ch. 30, title III, § 380n, as added May 28, 1956, ch 327, title V, § 501(3), 70 Stat. 211.)

CROSS REFERENCES

Fines, penalties and forfeitures—
Generally, see section 2461 et seq. of Title 28, Judiciary and Judicial Procedure.
Jurisdiction of district courts of actions for recovery of, see section 1355 of Title 28.
United States as party generally, see section 2401 et seq. of Title 28.
United States as plaintiff, jurisdiction of district courts, see section 1345 of Title 28.

§ 1380o. Reports and records

(a) The provisions of section 1373(a) of this title shall apply to all persons, except rice producers, who are subject to the provisions of this part, except that any such person failing to make any report or keep any record as required by this section or making any false report or record shall be deemed guilty of a misdemeanor and upon conviction thereof shall be subject to a fine of not more than $2,000 for each such violation.

(b) The provisions of section 1373(b) of this title shall apply to all rice farmers who are subject to the provisions of this part.

(Feb. 16, 1938, ch. 30, title III, § 380*o*, as added May 28, 1956, ch. 327, title V, § 501(3), 70 Stat. 211.)

§ 1380p. Definitions

For the purposes of this part—

(a) "cooperator" shall have the same meaning as under the Agricultural Act of 1949, as amended [7 U.S.C. 1421 et seq.].

(b) "processing of rough rice" means subjecting rough rice for the first time to any process which removes the husk or hull from the rice and results in the production of processed rice.

(c) "processed rice" means any rice from which the husk or hull has been removed and includes, but is not limited to—

(1) whole grain rice,
(2) second head milled rice,
(3) screenings milled rice,
(4) brewers milled rice,
(5) undermilled rice or unpolished rice,
(6) brown rice,
(7) converted rice, malekized rice or parboiled rice, and
(8) vitaminized rice or enriched rice.

(d) "United States" means the several States, the Territories of Hawaii and Alaska, the District of Columbia, and the Commonwealth of Puerto Rico.

(e) "exporter" means the consignor named in the bill of lading under which the processed rice is exported: *Provided, however,* That any other person may be considered to be the exporter if the consignor named in the bill of lading waives his claim in favor of such other person.

(f) "rough rice equivalent" means the quantity of rough rice normally used (as determined

by the Secretary of Agriculture) in the production of a particular quantity of processed rice, but shall not be more than one hundred pounds of rough rice for each sixty-eight pounds of processed rice.

(g) "import" means to enter, or withdraw from warehouse, for consumption.

(Feb. 16, 1938, ch. 30, title III, § 380p, as added May 28, 1956, ch. 327, title V, § 501(3), 70 Stat. 211.)

REFERENCES IN TEXT

The Agricultural Act of 1949, referred to in par. (a), is act Oct. 31, 1949, ch. 792, 63 Stat. 1051, which is classified generally to chapter 35A (§ 1421 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1421 of this title and Tables volume.

ADMISSION OF ALASKA AND HAWAII TO STATEHOOD

Alaska was admitted into the Union on Jan. 3, 1959, upon the issuance of Proc. No. 3269, Jan. 3, 1959, 24 F.R. 81, 73 Stat. c16, and Hawaii was admitted into the Union on Aug. 21, 1959, upon the issuance of Proc. No. 3309, Aug. 21, 1959, 24 F.R. 6868, 73 Stat. c74. For Alaska Statehood Law, see Pub. L. 85-508, July 7, 1958, 72 Stat. 339, set out as a note preceding section 21 of Title 48, Territories and Insular Possessions. For Hawaii Statehood Law, see Pub. L. 86-3, Mar. 18, 1959, 73 Stat. 4, set out as a note preceding section 491 of Title 48.

PART F—MISCELLANEOUS PROVISIONS AND APPROPRIATIONS

AMENDMENTS

1962—Pub. L. 87-703, title III, § 324(1), Sept. 27, 1962, 76 Stat. 626, redesignated E as F.

1956—Act May 28, 1956, ch. 327, title V, § 501(2), 70 Stat. 208, redesignated as subdivision E.

SUBPART I—MISCELLANEOUS

§§ 1381 to 1382. Omitted

CODIFICATION

Section 1381, acts Feb. 16, 1938, ch. 30, title III, § 381, 52 Stat. 66; Apr. 7, 1938, ch. 107, § 12, 52 Stat. 204, which related to cotton price adjustment payments with respect to the 1937 cotton crop, and to transfer of pledged cotton of the 1937 crop to the Commodity Credit Corporation, was omitted as obsolete. Subsec. (c) of former section 1381 of this title, which authorized sale of pledged cotton by Commodity Credit Corporation, was repealed by act July 3, 1948, ch. 827, title II, § 202(b), 62 Stat. 1255.

Section 1381a, act June 16, 1938, ch. 464, title I, 52 Stat. 745, which was not a part of the Agricultural Adjustment Act of 1938, related only to payments for 1937 crops, and is obsolete.

Section 1382, act Feb. 16, 1938, ch. 30, title III, § 382, 52 Stat. 67, required the Commodity Credit Corporation to provide for the extension, from July 31, 1938, to July 31, 1939, of the 1937 cotton loan, and was omitted as obsolete.

§ 1383. Insurance of cotton; reconcentration

(a) The Commodity Credit Corporation shall place all insurance of every nature taken out by it on cotton, and all renewals, extensions, or continuations of existing insurance, with insurance agents who are bonafide residents of and doing business in the State where the cotton is warehoused: *Provided,* That such insurance may be secured at a cost not greater than similar insurance offered on said cotton elsewhere.

(b) Cotton held as security for any loan heretofore or hereafter made or arranged for by the Commodity Credit Corporation shall not hereafter be reconcentrated without the written consent of the producer or borrower.

(Feb. 16, 1938, ch. 30, title III, § 383, 52 Stat. 67.)

TRANSFER OF FUNCTIONS

The administration of the program of the Commodity Credit Corporation was transferred to the Secretary of Agriculture by 1946 Reorg. Plan No. 3, § 501, eff. July 16, 1946, 11 F.R. 7877, 60 Stat. 1100, set out in the Appendix to Title 5, Government Organization and Employees.

EXCEPTIONS FROM TRANSFER OF FUNCTIONS

Functions of the Corporations of the Department of Agriculture, the boards of directors and officers of such corporations; the Advisory Board of the Commodity Credit Corporation; and the Farm Credit Administration or any agency, officer or entity of, under, or subject to the supervision of the said Administration were excepted from the functions of officers, agencies and employees transferred to the Secretary of Agriculture by 1953 Reorg. Plan No. 2, § 1, effective June 4, 1953, 18 F.R. 3219, 67 Stat. 633, set out as a note under section 2201 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1383a, 1386 of this title.

§ 1383a. Written consent for reconcentration of cotton

In the administration of section 1383(b) of this title the written consent of the producer or borrower to the reconcentration of any cotton held as security for any loan heretofore or hereafter made or arranged for by the Commodity Credit Corporation shall not be deemed to have been given unless such consent shall have been given in an instrument made solely for that purpose. Notwithstanding any provision of any loan agreement heretofore made, no cotton held under any such agreement as security for any such loan shall be moved from one warehouse to another unless the written consent of the producer or borrower shall have been obtained in a separate instrument given solely for that purpose, as required by this section. The giving of written consent for the reconcentration of cotton shall not be made a condition upon the making of any loan hereafter made or arranged for by the Commodity Credit Corporation: *Provided, however,* That in cases where there is congestion and lack of storage facilities, and the local warehouse certifies such fact and requests the Commodity Credit Corporation to move the cotton for reconcentration to some other point, or when the Commodity Credit Corporation determines such loan cotton is improperly warehoused and subject to damage, or if uninsured, or if any of the terms of the loan agreement are violated, or if carrying charges are substantially in excess of the average of carrying charges available elsewhere, and the local warehouse, after notice, declines to reduce such charges, such written consent as provided in this section need not be obtained; and consent to movement under any of the conditions of this proviso may be required in future loan agreements.

(June 16, 1938, ch. 480, 52 Stat. 762.)

CODIFICATION

Section was not enacted as a part of the Agricultural Adjustment Act of 1938 which comprises this chapter.

TRANSFER OF FUNCTIONS

The administration of the program of the Commodity Credit Corporation was transferred to the Secretary of Agriculture by 1946 Reorg. Plan No. 3, § 501, eff. July 16, 1946, 11 F.R. 7877, 60 Stat. 1100, set out in the Appendix to Title 5, Government Organization and Employees.

EXCEPTIONS FROM TRANSFER OF FUNCTIONS

Functions of the Corporations of the Department of Agriculture, the boards of directors and officers of such corporations; the Advisory Board of the Commodity Credit Corporation; and the Farm Credit Administration or any agency, officer or entity of, under, or subject to the supervision of the said Administration were excepted from the functions of officers, agencies and employees transferred to the Secretary of Agriculture by 1953 Reorg. Plan No. 2, § 1, effective June 4, 1953, 18 F.R. 3219, 67 Stat. 633, set out as a note under section 2201 of this title.

§ 1384. Repealed. Aug. 7, 1946, ch. 770, § 1(3), 60 Stat. 866

Section, act Feb. 16, 1938, ch. 30, title III, § 384, 52 Stat. 68, related to reports to Congress by the Secretary of Agriculture.

§ 1385. Finality of payments and loans; substitution of beneficiaries

The facts constituting the basis for any payment under chapter 3B of title 16, parity payment, payments under the cotton set-aside program, payments under the rice program authorized by section 1441(g) of this title, payments (including certificates) under the wheat and feed grain set-aside programs, payment under section 1339 of this title, loan, or price support operation, or the amount thereof, when officially determined in conformity with the applicable regulations prescribed by the Secretary or by the Commodity Credit Corporation, shall be final and conclusive and shall not be reviewable by any other officer or agency of the Government. In case any person who is entitled to any such payment dies, becomes incompetent, or disappears before receiving such payment, or is succeeded by another who renders or completes the required performance, the payment shall, without regard to any other provisions of law, be made as the Secretary of Agriculture may determine to be fair and reasonable in all the circumstances and provide by regulations. This section also shall be applicable to payments provided for under section 1348 of this title.

(Feb. 16, 1938, ch. 30, title III, § 385, 52 Stat. 68; July 2, 1940, ch. 521, § 7, 54 Stat. 728; July 3, 1948, ch. 827, title II, § 207(e), 62 Stat. 1257; Sept. 27, 1962, Pub. L. 87-703, title III, § 322, 76 Stat. 626; Apr. 11, 1964, Pub. L. 88-297, title I, § 102, 78 Stat. 174; Nov. 30, 1970, Pub. L. 91-524, title IV, § 404(5), title VI, § 605(3), 84 Stat. 1366, 1378; Feb. 16, 1976, Pub. L. 94-214, title III, § 302, 90 Stat. 187.)

REFERENCES IN TEXT

Chapter 3B [§ 590a et seq.] of title 16, referred to in text, was in the original a reference to the Soil Conservation and Domestic Allotment Act, as amended.

AMENDMENTS

1976—Pub. L. 94-214 made the facts constituting the basis for any payments under the rice program authorized by section 1441(g) of this title final and conclusive and not reviewable by any other officer or agency of the Government.

1970—Pub. L. 91-524 inserted references to payments under the cotton set-aside program and to payments (including certificates) under the wheat and feed grain set-aside programs.

1964—Pub. L. 88-297 provided for application of this section to payments in kind to equalize cost of cotton to domestic and foreign users.

1962—Pub. L. 87-703 inserted "payment under section 1339 of this title," after "parity payment,".

1948—Act July 3, 1948, substituted "loan, or price support operation" for "or loan".

1940—Act July 2, 1940, added last sentence.

EFFECTIVE DATE OF 1976 AMENDMENT

Section 302 of Pub. L. 94-214 provided in part that amendment by such section 302 be effective only with respect to the 1976 and 1977 crops of rice.

EFFECTIVE AND TERMINATION DATES OF 1970 AMENDMENT

Sections 404 and 605 of Pub. L. 91-524, as amended by Pub. L. 93-86, § 1(11), (22), Aug. 10, 1973, 87 Stat. 229, 235, provided in part that the amendments by Pub. L. 91-524 are effective only with respect to the 1971 through 1977 crops.

EFFECTIVE DATE OF 1962 AMENDMENT

Amendment made by section 322 of Pub. L. 87-703 effective only with respect to programs applicable to the crops planted for harvest in the calendar year 1964, or any subsequent year and the marketing years beginning in the calendar year 1964, or any subsequent year, see section 323 of Pub. L. 87-703, set out as a note under section 1301 of this title.

EFFECTIVE DATE OF 1948 AMENDMENT

Amendment by act July 3, 1948, effective Jan. 1, 1950, see section 303 of act July 3, 1948, set out as a note under section 1301 of this title.

TRANSFER OF FUNCTIONS

The administration of the program of the Commodity Credit Corporation was transferred to the Secretary of Agriculture by 1946 Reorg. Plan No. 3, § 501, eff. July 16, 1946, 11 F.R. 7877, 60 Stat. 1100, set out in the Appendix to Title 5, Government Organization and Employees.

EXCEPTIONS FROM TRANSFER OF FUNCTIONS

Functions of the Corporations of the Department of Agriculture, the boards of directors and officers of such corporations; the Advisory Board of the Commodity Credit Corporation; and the Farm Credit Administration or any agency, officer or entity of, under, or subject to the supervision of the said Administration were excepted from the functions of officers, agencies and employees transferred to the Secretary of Agriculture by 1953 Reorg. Plan No. 2, § 1, effective June 4, 1953, 18 F.R. 3219, 67 Stat. 633, set out as a note under section 2201 of this title.

CROSS REFERENCES

Rice, this section as applicable to issuance of certificates, see section 1380g of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1380g of this title.

§ 1386. Exemption from laws prohibiting interest of members of Congress in contracts

The provisions of section 22 of title 41 and sections 431 and 432 of title 18 shall not be applicable to loans or payments made under this chapter (except under section 1383(a) of this title).

(Feb. 16, 1938, ch. 30, title III, § 386, 52 Stat. 68.)

REFERENCES IN TEXT

"Sections 431 and 432 of title 18" have been substituted for "sections 114 and 115 of the Criminal Code of the United States (U.S.C., 1934 edition, title 18, secs. 204 and 205)" on authority of act June 25, 1948, ch. 645, 62 Stat. 683, which enacted Title 18, Crimes and Criminal Procedure.

WOOL SUPPORT PROGRAM

Wool support program, application of this section to, see note under section 713a-8 of Title 15, Commerce and Trade.

§ 1387. Photographic reproductions and maps

The Secretary may furnish reproductions of such aerial or other photographs, mosaics, and maps as have been obtained in connection with the authorized work of the Department to farmers and governmental agencies at the estimated cost of furnishing such reproductions, and to persons other than farmers at such prices (not less than estimated cost of furnishing such reporductions) as the Secretary may determine, the money received from such sales to be deposited in the Treasury to the credit of the appropriation charged with the cost of making such reproductions. This section shall not affect the power of the Secretary to make other disposition of such or similar materials under any other provisions of existing law.

(Feb. 16, 1938, ch. 30, title III, § 387, 52 Stat. 68.)

WOOL SUPPORT PROGRAM

Wool support program, application of this section to, see note under section 713a-8 of Title 15, Commerce and Trade.

CROSS REFERENCES

Soil Conservation Service work, sale of maps, etc., prepared in, see section 590i-1 of Title 16, Conservation.

§ 1388. Utilization of local agencies

(a) The provisions of sections 590h(b) and 590k of title 16, relating to the utilization of State, county, local committees, the extension service, and other approved agencies, and to recognition and encouragement of cooperative associations, shall apply in the administration of this chapter; and the Secretary shall, for such purposes, utilize the same local, county, and State committees as are utilized under sections 590g, 590h, 590i, and 590j to 590q of title 16. The local administrative areas designated under section 590h(b) of title 16, for the administration of programs under chapter 3B of title 16, and the local administrative areas designated for the administration of this chapter shall be the same.

(b) The Secretary is authorized and directed, from any funds made available for the purposes of this chapter and chapter 3B of title 16 in connection with which county committees are utilized, to make payments to county committees of farmers to cover the estimated administrative expenses incurred or to be incurred by them in cooperating in carrying out the provisions of this chapter and chapter 3B of title 16. All or part of such estimated administrative expenses of any such committee may be deducted pro rata from chapter 3B of title 16 payments, parity payments, or loans, or other payments under this chapter and chapter 3B of title 16, made unless payment of such expenses is otherwise provided by law. The Secretary may make such payments to such committees in advance of determination of performance by farmers.

(Feb. 16, 1938, ch. 30, title III, § 388, 52 Stat. 68.)

REFERENCES IN TEXT

Chapter 3B [§ 590a et seq.] of title 16, referred to in text, was in the original a reference to the Soil Conservation and Domestic Allotment Act, as amended.

CROSS REFERENCES

Naval stores, limitation on application of section to, see section 590h-1 of Title 16, Conservation.

§ 1389. Personnel

The Secretary is authorized and directed to provide for the execution by the Agricultural Adjustment Administration of such of the powers conferred upon him by this chapter as he deems may be appropriately exercised by such Administration; and for such purposes the provisions of law applicable to appointment and compensation of persons employed by the Agricultural Adjustment Administration shall apply.

(Feb. 16, 1938, ch. 30, title III, § 389, 52 Stat. 69.)

TRANSFER OF FUNCTIONS

All functions of all officers, agencies and employees of the Department of Agriculture were transferred, with certain exceptions, to the Secretary of Agriculture by 1953 Reorg. Plan No. 2, § 1, eff. June 4, 1953, 18 F.R. 3219, 67 Stat. 633, set out as a note under section 2201 of this title.

Functions of the Agricultural Adjustment Administration were transferred to the Secretary of Agriculture by 1946 Reorg. Plan No. 3, § 501, eff. July 16, 1946, 11 F.R. 7877, 60 Stat. 1100, set out in the Appendix to Title 5, Government Organization and Employees. See note under section 610 of this title.

Agricultural Adjustment Administration consolidated with other agencies into Agricultural Conservation and Adjustment Administration for duration of war, see Ex. Ord. No. 9069.

§ 1390. Separability of provisions

If any provision of this chapter, or the application thereof to any person or circumstance, is held invalid, the validity of the remainder of the chapter and the application of such provision to other persons or circumstances, and the provisions of chapter 3B of title 16, shall not be affected thereby. Without limiting the generality of the foregoing, if any provision of this chapter should be held not to be within the power of the Congress to regulate interstate and foreign commerce, such provision shall not be held invalid if it is within the power of the

Congress to provide for the general welfare or any other power of the Congress. If any provision of this chapter for marketing quotas with respect to any commodity should be held invalid, no provision of this chapter for marketing quotas with respect to any other commodity shall be affected thereby. If the application of any provision for a referendum should be held invalid, the application of other provisions shall not be affected thereby. If by reason of any provision for a referendum the application of any such other provision to any person or circumstance is held invalid, the application of such other provision to other persons or circumstances shall not be affected thereby.

(Feb. 16, 1938, ch. 30, title III, § 390, 52 Stat. 69.)

REFERENCES IN TEXT

Chapter 3B [§ 590a et seq.] of title 16, referred to in text, was in the original a reference to the Soil Conservation and Domestic Allotment Act, as amended.

SUBPART II—APPROPRIATIONS AND ADMINISTRATIVE EXPENSES

§ 1391. Authorization of appropriations; loans from Commodity Credit Corporation

(a) Beginning with the fiscal year ending June 30, 1938, there is hereby authorized to be appropriated, for each fiscal year for the administration of this chapter and for the making of soil conservation and other payments such sums as Congress may determine, in addition to any amount made available pursuant to section 590o of title 16.

(b) For the administration of this chapter (and the provisions of chapter 36 of this title) during the fiscal year ending June 30, 1938, there is hereby authorized to be made available from the funds appropriated for such fiscal year for carrying out the purposes of section 590g, 590h, 590i, and 590j to 590q of title 16, a sum not to exceed $5,000,000.

(c) During each fiscal year, beginning with the fiscal year ending June 30, 1941, the Commodity Credit Corporation is authorized and directed to loan to the Secretary such sums, not to exceed $50,000,000, as he estimates will be required during such fiscal year, to make crop insurance premium advances and to make advances pursuant to the applicable provisions of sections 590h and 590*l* of title 16, in connection with programs applicable to crops harvested in the calendar year in which such fiscal year ends, and to pay the administrative expenses of county agricultural conservation associations for the calendar year in which such fiscal year ends. The sums so loaned during any fiscal year shall be transferred to the current appropriation available for carrying out sections 590g, 590h, 590i, and 590j to 590q of title 16 and shall be repaid, with interest at a rate to be determined by the Secretary but not less than the cost of money to the Commodity Credit Corporation for a comparable period, during the succeeding fiscal year from the appropriation available for that year or from any unobligated balance of the appropriation for any other year.

(Feb. 16, 1938, ch. 30, title III, § 391, 52 Stat. 69; July 2, 1940, ch. 521, § 8, 54 Stat. 728.)

AMENDMENTS

1940—Subsec. (c). Act July 2, 1940 added subsec. (c).

TRANSFER OF FUNCTIONS

The administration of the program of the Commodity Credit Corporation was transferred to the Secretary of Agriculture by 1946 Reorg. Plan No. 3, § 501, eff. July 16, 1946, 11 F.R. 7877, 60 Stat. 1100, set out in the Appendix to Title 5, Government Organization and Employees.

EXCEPTIONS FROM TRANSFER OF FUNCTIONS

Functions of the Corporations of the Department of Agriculture, the boards of directors and officers of such corporations; the Advisory Board of the Commodity Credit Corporation; and the Farm Credit Administration or any agency, officer or entity of, under, or subject to the supervision of the said Administration were excepted from the functions of officers, agencies and employees transferred to the Secretary of Agriculture by 1953 Reorg. Plan No. 2, § 1, effective June 4, 1953, 18 F.R. 3219, 67 Stat. 633, set out as a note under section 2201 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1292 of this title.

§ 1392. Administrative expenses; posting names and compensation of local employees

(a) The Secretary is authorized and directed to make such expenditures as he deems necessary to carry out the provisions of this chapter and sections 590g, 590h, 590i, and 590j to 590q of title 16, including personal services and rents in the District of Columbia and elsewhere; traveling expenses; supplies and equipment; lawbooks, books of reference, directories, periodicals, and newspapers; and the preparation and display of exhibits, including such displays at community, county, State, interstate, and international fairs within the United States. The Secretary of the Treasury is authorized and directed upon the request of the Secretary to establish one or more separate appropriation accounts into which there shall be transferred from the respective funds available for the purposes of this chapter and chapter 3B of title 16, in connection with which personnel or other facilities of the Agricultural Adjustment Administration are utilized, proportionate amounts estimated by the Secretary to be required by the Agricultural Adjustment Administration for administrative expenses in carrying out or cooperating in carrying out any of the provisions of this chapter and chapter 3B of title 16.

(b) In the administration of this subchapter and sections 590g, 590h, 590i, and 590j to 590q of title 16, the aggregate amount expended in any fiscal year, beginning with the fiscal year ending June 30, 1942, for administrative expenses in the District of Columbia, including regional offices, and in the several States (not including the expenses of county and local committees) shall not exceed 3 per centum of the total amount available for such fiscal year for carrying out the purposes of this subchapter and chapter 3B of title 16, unless otherwise provided by appropriation or other law. In the administration of section 612c of this title, and sections 601, 602, 608a, 608b, 608c, 608d, 610, 612, 614, 624, and 671 to 673 of this title, the aggregate amount expended in any fiscal year beginning with the fiscal year ending June 30,

1942, for administrative expenses in the District of Columbia, including regional offices, and in the several States (not including the expenses of county and local committees) shall not exceed 4 per centum of the total amount available for such fiscal year for carrying out the purposes of said sections, unless otherwise provided by appropriation or other law. In the event any administrative expenses of any county or local committee are deducted in any fiscal year, beginning with the fiscal year ending June 30, 1939, from chapter 3B of title 16 payments, parity payments, or loans, each farmer receiving benefits under such provisions shall be apprised of the amount or percentage deducted from such benefit payment or loan on account of such administrative expenses. The names and addresses of the members and employees of any county or local committee, and the amount of such compensation received by each of them, shall be posted annually in a conspicuous place in the area within which they are employed.

(Feb. 16, 1938, ch. 30, title III, § 392, 52 Stat. 69; Jan. 31, 1942, ch. 32, 56 Stat. 41; Aug. 3, 1956, ch. 950, § 7, 70 Stat. 1034.)

REFERENCES IN TEXT

Chapter 3B [§ 590a et seq.] of title 16, referred to in text, was in the original a reference to the Soil Conservation and Domestic Allotment Act, as amended.

AMENDMENTS

1956—Subsec. (b). Act Aug. 3, 1956 changed the period to a comma at the end of the first and second sentences and added the words "unless otherwise provided by appropriation or other law".

1942—Subsecs. (a) and (b). Act Jan. 31, 1942, among other changes, added reference to sections of Title 16, after "this chapter" and "this subchapter".

EFFECTIVE DATE OF 1942 AMENDMENTS

Amendment of subsecs. (a) and (b) of this section by act Jan. 31, 1942, made "effective for the fiscal year 1942 and subsequent fiscal years" by such act Jan. 31, 1942.

TRANSFER OF FUNCTIONS

Agricultural Adjustment Administration was consolidated into the Production and Marketing Administration by 1946 Reorg. Plan No. 3, eff. July 4, 1946, 11 F.R. 7876, 60 Stat. 1100, set out in the Appendix to Title 5, Government Organization and Employees. See note under section 610 of this title.

EXPENSES OF AN ADVISORY COMMITTEE ON SOIL AND WATER CONSERVATION

Act Aug. 3, 1956, ch. 934, 70 Stat. 989, provided: "That the Secretary of Agriculture is authorized to pay expenses of an Advisory Committee on Soil and Water Conservation and related matters, but such Committee members (other than ex officio members) shall not be deemed to be employees of the United States and shall not receive compensation."

TERMINATION OF ADVISORY COMMITTEES

Advisory Committees in existence on Jan. 5, 1973, to terminate not later than the expiration of the two-year period following Jan. 5, 1973, unless, in the case of a committee established by the President or an officer of the Federal Government, such committee is renewed by appropriate action prior to the expiration of such two-year period, or in the case of a committee established by the Congress, its duration is otherwise provided by law, see section 14 of Pub. L. 92-463, Oct. 6, 1972, 86 Stat. 770, set out in the Appendix to Title 5, Government Organization and Employees.

§ 1393. Allotment of appropriations

All funds for carrying out the provisions of this chapter shall be available for allotment to bureaus and offices of the Department, and for transfer to such other agencies of the Federal Government, and to such State agencies, as the Secretary may request to cooperate or assist in carrying out the provisions of this chapter.

(Feb. 16, 1939, ch. 30, title III, § 393, 52 Stat. 70.)

SUBCHAPTER III—COTTON POOL PARTICIPATION TRUST CERTIFICATES

§§ 1401 to 1407. Omitted

CODIFICATION

Section 1401, act Feb. 16, 1938, ch. 30, title IV, § 401, 52 Stat. 70, authorized an appropriation of $1,800,000 to accomplish the purposes declared in former provisions of this subchapter and provided for payments by Secretary of Treasury upon order of Secretary of Agriculture.

Section 1402, act Feb. 16, 1938, ch. 30, title IV, § 402, 52 Stat. 70, provided for deposit of appropriation to credit of the Secretary of Agriculture for disbursement for purposes stated in former provisions of this subchapter.

Section 1403, acts Feb. 16, 1938, ch. 30, title IV, § 403, 52 Stat. 70; Apr. 7, 1938, ch. 107, § 13, 52 Stat. 204, provided allotment of funds to manager of cotton pool for purchase of pool participation trust certificates, to be tendered by lawful holder and owner thereof on or before May 1, 1938, at rate of $1 per five-hundred-pound bale, payment of costs and expenses incident to such purchases and covering into the Treasury as miscellaneous receipts balance remaining at expiration of purchase period.

Section 1404, acts Feb. 16, 1938, ch. 30, title IV, § 404, 52 Stat. 71; Apr. 7, 1938, ch. 107, § 14, 52 Stat. 204, extended the time limit for purchase of outstanding pool participation certificates to and including July 31, 1938, authorized issuance of rules and regulations and prohibited purchases from other than record holders on or before May 1, 1938.

Section 1404a, acts June 16, 1938, ch. 464, title I, 52 Stat. 747; Apr. 5, 1939, ch. 44, 53 Stat. 572, extended the time limit for purchase of certificates to and including Sept. 30, 1939 and made the date of May 1, 1938 inapplicable.

Section 1404b, act June 16, 1938, ch. 464, title I, 52 Stat. 747, provided for issuance of regulations for payments on participation trust certificates in case of death, incompetence or disappearance of payee.

Section 1405, act Feb. 16, 1938, ch. 30, title IV, § 405, 52 Stat. 71, authorized continuance of 1933 cotton producers pool as long as necessary to effectuate purposes of former provisions of this subchapter and use of funds for payment of expenses.

Section 1406, act Feb. 16, 1938, ch. 30, title IV, § 406, 52 Stat. 71, prohibited purchase of certificates after expiration of time limit.

Section 1407, acts Feb. 16, 1938, ch. 30, title IV, § 407, 52 Stat. 71; Apr. 7, 1938, ch. 107, § 15, 52 Stat. 204, provided for payment by assignee of certificate transferred subsequent to May 1, 1937, limited to the purchase price paid by the assignee, with interest at rate of four per centum from date of purchase, not exceeding an amount of $1 per bale, payment to be based upon affidavit of assignee.

SETTLEMENT OF CERTAIN CLAIMS AND ACCOUNTS

Act June 5, 1942, ch. 349, §§ 2, 3, 56 Stat. 324, formerly set out as a note under section 1401 of this title, authorized Comptroller General to relieve disbursing and certifying officers from liability for payments

made under former provisions of this subchapter upon certificate of Secretary of Agriculture that such payments were made in good faith, and also provided that no action should be taken to recover such excess payments, if the Secretary of Agriculture should further certify that, in view of the good faith of the parties or other circumstances of the case, such attempt to recover them would be inadvisable or inequitable.

CHAPTER 35A—PRICE SUPPORT OF AGRICULTURAL COMMODITIES

SUBCHAPTER I—GENERAL PROVISIONS

Sec.
1421. Price support.
(a) Source.
(b) Authority of Secretary; factors considered.
(c) Compliance by producer; program for diverted acres.
(d) Time of determining levels.
(e) Processors' assurances.
1422. Increase of price support levels.
1423. Adjustment of support prices.
1424. Utilization of services and facilities of Commodity Credit Corporation.
1425. Personal liability of producers for deficiencies.
1426. Advance announcement of price support levels; reduction of levels.
1427. Sale of farm commodities; policies and rates of sale; exceptions; use of commodities to relieve distress.
1427a. Reserve inventories for alleviation of distress of natural disaster.
(a) Establishment, maintenance and disposal by Secretary; amount and nature of reserve.
(b) Acquisition of commodities through price support program.
(c) Prerequisites for sale or disposition of commodities in reserve.
(d) Additional authorization for disposition of commodities to relieve distress or for civil defense emergencies.
(e) Sale at equivalent prices for maintenance of reserve.
(f) Utilization of Commodity Credit Corporation and usual and customary channels, etc., of trade and commerce.
(g) Rules and regulations.
(h) Authorization of appropriations.
1428. Definitions.
1429. Determinations of Secretary as final and conclusive.
1430. Retroactive effect.
1431. Disposition of commodities to prevent waste; eligible recipients; barter; estimates; reprocessing and other charges.
1431a. Cotton donations to educational institutions.
1431b. Distribution of surplus commodities to other United States areas.
1431c. Enrichment and packaging of cornmeal, grits, rice, and white flour available for distribution.
1431d. Donations for school feeding programs abroad; student financing; priorities.
1432. Extension of price support on long staple cotton seeds and products.
1433. Penalties for misuse of feed intended to relieve distress or preserve foundation herds.
1434. Encouragement of production of crops of which United States is a net importer and for which price support programs are not in effect; authority to plan on set-aside acreage with no reduction in payment rate.

SUBCHAPTER II—BASIC AGRICULTURAL COMMODITIES

Sec.
1441. Price support levels.
1441a. Cost of production study; establishment of current national weighted average cost of production; annual revision of study; criteria for study.
1442. Price support and acreage requirements for corn and other feed grains.
(a) Conditions of eligibility.
(b) Referendum of producers of corn.
(c) Restriction on acreage allotment of corn; price support level.
(d) Price support level for 1956 and 1957 crops of grain sorghums, barley, rye, oats, and corn.
1443. Cotton acreage allotment and price support levels for 1959 and 1960.
1444. Cotton price support levels.
(a) Basic support levels for 1961 and subsequent years.
(b) Additional support levels for 1964 and 1965.
(c) Alternative operations for carrying out additional price support; payment-in-kind certificates: value, marketing assistance, redemption, and deductions after thirty day period.
(d) Price support and diversion payments for 1966 through 1970 crops.
(e) Price support, diversion, and cropland set-aside program for crops beginning with 1971 crop.
1444a. Corn and feed grains and cotton programs.
(a) Referendum; selection of price support program under subsection (b) of this section for 1959 and subsequent crops or acreage allotments under Agricultural Adjustment Act of 1938 and price support under section 1441 of this title.
(b) Operative status of certain provisions.
(c) Cotton research program; reduction of upland cotton production costs; authorization of appropriations; reports to Congressional Committees.
(d) Cotton insect eradication; Commodity Credit Corporation execution of program; utilization of technical and related services of Federal, State, and private agencies and cotton organizations; participation and cooperation of beneficiaries of any program. Enforcement against nonbeneficiaries of any program; regulations, civil penalties for separate offenses, notice and hearing, determination of amount; indemnification funds for loss of production and income from special measures; protection of allotments, acreage history, and average farm yield; payment of costs in eradication zone; reasonable and equitable share; deduction of pro rata share from cotton payment; employment of people in trade; termination of funding of program; accounting for and disposition of funds in custody of agencies. Cooperation with Government of Mexico: measures and character of cooperation, functions of Secretaries of Agriculture and State; prohibition of Commodity Credit Corporation expenditures without funds from appropriations; authorization of appropriations.
1444b. Feed grains; loans and purchases; payments.
(a)(1) Corn loans and purchases support levels; encouragement of exports; nonproduction of excessive stocks.

Sec.
(2) Other feed grains loans and purchases support levels; specific considerations.
(b)(1) Crop payments; computation; rate.
(2) National acreage allotment for feed grains: determination and proclamation; adjustment of feed grain allotment; State, county, and farm feed grain allotments: establishment and adjustment; reservation for apportionment to new feed grain farms; apportionment factors.
(3) Feed grain allotment; reduction or loss; election of nonpayment; national pool of eliminated acres for adjustment of feed grain allotment; acreage planted to feed grains; feed grain acreage planted for harvest when subject to natural disaster or other uncontrolled condition; other acreage as feed grain acreage.
(c)(1) Cropland set-aside; excessive stocks; adequate carryover; conservations uses acreage; crop year feed grain acre limitation; "feed grains" for consideration of wheat as feed grain acreage; consideration of section 1339c feed grains diversion program; authorization of set-aside acreage for grazing and production of other commodities.
(2) Land diversion payments for conservation uses acreage; rate; conservation uses acreage limitation.
(3) Protective measures; wildlife use standards; Federal sharing of cost; additional payments for public use.
(4) Participation agreement of farm operators, filing; soil conserving uses acreage requirement; mutual termination of agreement for emergencies or limited supplies.
(d) Sharing of payments; fair and equitable basis.
(e) Feed grains acreage adjustments; factors affecting production; State or county adjustments without increasing State acreage; drawing from acreage pool; downward adjustments.
(f) Equitable amounts for loans, purchases, and payments in relation to seriousness of defaults in spite of noncompliance with terms and conditions of program.
(g) Repealed.
(h) Regulations.
(i) Commodity Credit Corporation execution of feed grains programs.
1445. Tobacco price support levels for 1960 and subsequent years.
1445a. Wheat price support levels.

SUBCHAPTER III—NONBASIC AGRICULTURAL COMMODITIES

1446. Price support levels for designated nonbasic agricultural commodities.
1446a. Dairy products; availability through Commodity Credit Corporation.
(a) Administrator of Veteran Affairs; needs; report to Congress.
(b) Secretary of the Army; needs; report to Congress.
(c) Costs.
(d) Dairy products available.
1446a-1. Use of Commodity Credit Corporation funds for purchases of dairy products requirements for school and other programs.
1446b. Policy with regard to dairy products.
1446c. Domestic disposal programs for dairy products.
1446d. Price support levels for cottonseed and soybeans.
1447. Price support levels for other nonbasic agricultural commodities.
1448. Price support levels for storable nonbasic agricultural commodities.
1449. Determination of price support level.
1450. Repealed.

SUBCHAPTER IV—MEXICAN AGRICULTURAL WORKERS

1461 to 1468. Omitted.

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in sections 1301, 1305, 1314f, 1334b, 1380f, 1380p, 1446c, 1745 of this title; title 26 section 451; title 43 sections 615vvv, 615bbbb, 615iiii.

SUBCHAPTER I—GENERAL PROVISIONS

§ 1421. Price support

(a) Source

The Secretary shall provide the price support authorized or required herein through the Commodity Credit Corporation and other means available to him.

(b) Authority of Secretary; factors considered

Except as otherwise provided in this Act, the amounts, terms, and conditions of price support operations and the extent to which such operations are carried out, shall be determined or approved by the Secretary. The following factors shall be taken into consideration in determining, in the case of any commodity for which price support is discretionary, whether a price-support operation shall be undertaken and the level of such support and, in the case of any commodity for which price support is mandatory, the level of support in excess of the minimum level prescribed for such commodity: (1) the supply of the commodity in relation to the demand therefor, (2) the price levels at which other commodities are being supported and, in the case of feed grains, the feed values of such grains in relation to corn, (3) the availability of funds, (4) the perishability of the commodity, (5) the importance of the commodity to agriculture and the national economy, (6) the ability to dispose of stocks acquired through a price-support operation, (7) the need for offsetting temporary losses of export markets, (8) the ability and willingness of producers to keep supplies in line with demand and (9), in the case of upland cotton, changes in the cost of producing such cotton.

(c) Compliance by producer; program for diverted acres

Compliance by the producer with acreage allotments, production goals and marketing practices (including marketing quotas when authorized by law), prescribed by the Secretary, may be required as a condition of eligibility for price support. In administering any program for diverted acres the Secretary may make his regulations applicable on an appropriate geographical basis. Such regulations shall be administered (1) in semiarid or other areas where good husbandry requires maintenance of a prudent feed reserve in such manner as to permit, to the extent so required by good husbandry, the pro-

duction of forage crops for storage and subsequent use either on the farm or in feeding operations of the farm operator, and (2) in areas declared to be disaster areas by the President under Public Law 875, Eighty-first Congress, in such manner as will most quickly restore the normal pattern of their agriculture.

(d) Time of determining levels

The level of price support for any commodity shall be determined upon the basis of its parity price as of the beginning of the marketing year or season in the case of any commodity marketed on a marketing year or season basis and as of January 1 in the case of any other commodity.

(e) Processors' assurances

Whenever any price support or surplus removal operation for any agricultural commodity is carried out through purchases from or loans or payments to processors, the Secretary shall, to the extent practicable, obtain from the processors such assurances as he deems adequate that the producers of the agricultural commodity involved have received or will receive maximum benefits from the price support or surplus removal operation.

(Oct. 31, 1949, ch. 792, title IV, § 401, 63 Stat. 1054; Aug. 28, 1954, ch. 1041, title II, §§ 206, 207, 68 Stat. 901; Apr. 11, 1964, Pub. L. 88-297, title I, § 103(c), 78 Stat. 175.)

REFERENCES IN TEXT

This Act, referred to in subsec. (b), is the Agricultural Act of 1949, act Oct. 31, 1949, ch. 792, 63 Stat. 1051. For classification of this Act to the Code, see Short Title note set out under this section and Tables volume.

Public Law 875, Eighty-first Congress, referred to in subsec. (c), is act Sept. 30, 1950, ch. 1125, 64 Stat. 1109 (42 U.S.C. 1855-1855g), and was repealed by section 302(1) of the Disaster Relief Act of 1970 (Pub. L. 91-606, Dec. 31, 1970, 84 Stat. 1744; 42 U.S.C. 4401 et seq.). Section 301(1) of the Disaster Relief Act of 1970 provided in part that references in other laws to the 1950 Act shall be deemed a reference to the Disaster Relief Act of 1970. The Disaster Relief Act of 1970 was repealed by section 603 of the Disaster Relief Act of 1974 (Pub. L. 93-288, May 22, 1974, 88 Stat. 143; 42 U.S.C. 5121 et seq.). Section 602(m) of the Disaster Relief Act of 1974 provided in part that references in other laws to the 1970 Act shall be deemed a reference to the Disaster Relief Act of 1974.

AMENDMENTS

1964—Subsec. (b). Pub. L. 88-297 added clause (9).

1954—Subsec. (c). Act Aug. 28, 1954, § 206, provided a program for diverted acres.

Subsec. (e). Act Aug. 28, 1954, § 207, added subsec. (e).

SHORT TITLE

Section 1 of act Oct. 31, 1949, provided that "This Act [which enacted sections 1421 to 1431, 1432, 1433, 1441, 1443 to 1445a, 1446, 1446a, 1446d, 1447 to 1449, and 1461 to 1468 of this title, amended sections 612c, 1301, former section 1322, and sections 1328, 1343, 1344, 1345, and 1353 to 1356 of this title, and repealed section 1302 of this title; amended former sections 1134c and 1134j of Title 12, Banks and Banking; amended section 713a-4 of Title 15, Commerce and Trade; and amended section 410 of Title 42, The Public Health and Welfare] may be cited as the 'Agricultural Act of 1949'."

REPEALS

Section 414 of act Oct. 31, 1949, provided in part that: "any provision of law in conflict with the provisions of this Act [see Short Title note set out under this section] are hereby repealed."

EXCEPTIONS FROM TRANSFER OF FUNCTIONS

Functions of the Corporations of the Department of Agriculture, the boards of directors and officers of such corporations; the Advisory Board of the Commodity Credit Corporation; and the Farm Credit Administration or any agency, officer or entity of, under, or subject to the supervision of the said Administration were excepted from the functions of officers, agencies and employees transferred to the Secretary of Agriculture by 1953 Reorg. Plan No. 2, § 1, effective June 4, 1953, 18 F.R. 3219, 67 Stat. 633, set out as a note under section 2201 of this title.

STUDIES IN RICE PRICE SUPPORT; REPORT TO CONGRESS; TERMINATION DATE

Section 315 of act Aug. 28, 1954, directed the Secretary of Agriculture to study the various two-price systems of price support and marketing which could be made applicable to rice and to submit to Congress on or before March 1, 1955, a detailed report thereon.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1428, 1444, 1444b, 1448 of this title.

§ 1422. Increase of price support levels

Notwithstanding any other provision of this Act, price support at a level in excess of the maximum level of price support otherwise prescribed in this Act may be made available for any agricultural commodity if the Secretary determines, after a public hearing of which reasonable notice has been given, that price support at such increased level is necessary in order to prevent or alleviate a shortage in the supply of any agricultural commodity essential to the national welfare or in order to increase or maintain the production of any agricultural commodity in the interest of national security. The Secretary's determination and the record of the hearing shall be available to the public.

(Oct. 31, 1949, ch. 792, title IV, § 402, 63 Stat. 1054.)

REFERENCES IN TEXT

This Act, referred to in text is the Agricultural Act of 1949, act Oct. 31, 1949, ch. 792, 63 Stat. 1051. For classification of this Act to the Code, see Short Title note set out under section 1421 of this title and Tables volume.

EXCEPTIONS FROM TRANSFER OF FUNCTIONS

Functions of the Corporations of the Department of Agriculture, the boards of directors and officers of such corporations; the Advisory Board of the Commodity Credit Corporation; and the Farm Credit Administration or any agency, officer or entity of, under, or subject to the supervision of the said Administration were excepted from the functions of officers, agencies and employees transferred to the Secretary of Agriculture by 1953 Reorg. Plan No. 2, § 1, effective June 4, 1953, 18 F.R. 3219, 67 Stat. 633, set out as a note under section 2201 of this title.

CROSS REFERENCES

Price support levels, see section 1441 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1428, 1441 of this title.

§ 1423. Adjustment of support prices

Appropriate adjustments may be made in the support price for any commodity for differences in grade, type, staple, quality, location, and other factors. Such adjustments shall, so far as practicable, be made in such manner that the average support price for such commodity will, on the basis of the anticipated incidence of such factors, be equal to the level of support determined as provided in this Act. Beginning with the 1959 crop, in adjusting the support price for cotton on the basis of grade, the Secretary shall establish separate price support rates for split grades and for full grades substantially reflecting relative values.

(Oct. 31, 1949, ch. 792, title IV, § 403, 63 Stat. 1054; Aug. 28, 1958, Pub. L. 85-835, title I, §§ 108, 111, 72 Stat. 993; Nov. 3, 1965, Pub. L. 89-321, title VIII, § 802, 79 Stat. 1213.)

REFERENCES IN TEXT

This Act, referred to in text, is the Agricultural Act of 1949, act Oct. 31, 1949, ch. 792, 63 Stat. 1051. For classification of this Act to the Code, see Short Title note set out under section 1421 of this title and Tables volume.

CODIFICATION

The provision that in determining price supports for the 1966 and 1967 rice crops, the Secretary was, notwithstanding other provisions of law, to use head and broken rice value factors for the various varieties which (1) were not lower than those used with respect to the 1965 crop and (2) did not differ as between any two varieties by a greater amount than the value factors used with respect to the 1965 crop for such two varieties differed, was omitted as obsolete.

AMENDMENTS

1965—Pub. L. 89-321 provided that, in determining support prices for the 1966 and 1967 rice crops, the Secretary shall use head and broken rice value factors for the various varieties which are not lower than those with respect to the 1965 crop and which do not differ as between any two varieties by a greater amount than the value factors used with rspect to the 1965 crop for such two varieties differed.

1958—Pub. L. 85-835 provided for support of split grades, and repealed, effective with the 1961 crop, sentence prescribing standard cotton grade for parity and price support purposes.

EXCEPTIONS FROM TRANSFER OF FUNCTIONS

Functions of the Corporations of the Department of Agriculture, the boards of directors and officers of such corporations; the Advisory Board of the Commodity Credit Corporation; and the Farm Credit Administration or any agency, officer or entity of, under, or subject to the supervision of the said Administration were excepted from the functions of officers, agencies and employees transferred to the Secretary of Agriculture by 1953 Reorg. Plan No. 2, § 1, effective June 4, 1953, 18 F.R. 3219, 67 Stat. 633, set out as a note under section 2201 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1428 of this title.

§ 1424. Utilization of services and facilities of Commodity Credit Corporation

The Secretary, in carrying out programs under section 612c of this title and section 1755 of title 42, may utilize the services and facilities of the Commodity Credit Corporation (including but not limited to procurement by contract), and make advance payments to it.

(Oct. 31, 1949, ch. 792, title IV, § 404, 63 Stat. 1054.)

EXCEPTIONS FROM TRANSFER OF FUNCTIONS

Functions of the Corporations of the Department of Agriculture, the boards of directors and officers of such corporations; the Advisory Board of the Commodity Credit Corporation; and the Farm Credit Administration or any agency, officer or entity of, under, or subject to the supervision of the said Administration were excepted from the functions officers, agencies and employees transferred to the Secretary of Agriculture by 1953 Reorg. Plan No. 2, § 1, effective June 4, 1953, 18 F.R. 3219, 67 Stat. 633, set out as a note under section 2201 of this title.

§ 1425. Personal liability of producers for deficiencies

No producer shall be personally liable for any deficiency arising from the sale of the collateral securing any loan made under authority of this Act unless such loan was obtained through fraudulent representations by the producer. This provision shall not, however, be construed to prevent the Commodity Credit Corporation or the Secretary from requiring producers to assume liability for deficiencies in the grade, quality, or quantity of commodities stored on the farm or delivered by them, for failure properly to care for and preserve commodities, or for failure or refusal to deliver commodities in accordance with the requirements of the program. There is authorized to be included in the terms and conditions of any such nonrecourse loan a provision whereby on and after the maturity of the loan or any extension thereof Commodity Credit Corporation shall have the right to acquire title to the unredeemed collateral without obligation to pay for any market value which such collateral may have in excess of the loan indebtedness.

(Oct. 31, 1949, ch. 792, title IV, § 405, 63 Stat. 1054; Aug. 28, 1958, Pub. L. 85-835, title V, § 502, 72 Stat. 996.)

REFERENCES IN TEXT

This Act, referred to in text, is the Agricultural Act of 1949, act Oct. 31, 1949, ch. 792, 63 Stat. 1051. For classification of this Act to the Code, see Short Title note set out under section 1421 of this title and Tables volume.

AMENDMENTS

1958—Pub. L. 85-835 authorized the Commodity Credit Corporation to acquire title to agricultural commodities on which nonrecourse price-support loans have been made without the necessity of computing and making payments to the farmer.

EXCEPTIONS FROM TRANSFER OF FUNCTIONS

Functions of the Corporations of the Department of Agriculture, the boards of directors and officers of such corporations; the Advisory Board of the Commodity Credit Corporation; and the Farm Credit Administration or any agency, officer or entity of, under, or subject to the supervision of the said Administration were excepted from the functions of officers, agencies and employees transferred to the Secretary of Agriculture by 1953 Reorg. Plan No. 2, § 1, effective June 4, 1953, 18 F.R. 3219, 67 Stat. 633, set out as a note under section 2201 of this title.

§ 1426. Advance announcement of price support levels; reduction of levels

The Secretary shall, insofar as practicable, announce the level of price support for field crops in advance of the planting season and for other agricultural commodities in advance of the beginning of the marketing year or season (January 1 in the case of commodities not marketed on a marketing year or season basis), but the level of price support so announced shall not exceed the estimated maximum level of price support specified in this Act, based upon the latest information and statistics available to the Secretary when such level of price support is announced; and the level of price support so announced shall not be reduced if the maximum level of price support when determined, is less than the level so announced.

(Oct. 31, 1949, ch. 792, title IV, § 406, 63 Stat. 1055.)

REFERENCES IN TEXT

This Act, referred to in text, is the Agricultural Act of 1949, act Oct. 31, 1949, ch. 792, 63 Stat. 1051. For classification of this Act to the Code, see Short Title note set out under section 1421 of this title and Tables volume.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1428 of this title.

§ 1427. Sale of farm commodities; policies and rates of sale; exceptions; use of commodities to relieve distress

The Commodity Credit Corporation may sell any farm commodity owned or controlled by it at any price not prohibited by this section. In determining sales policies for basic agricultural commodities or storable nonbasic commodities, the Corporation should give consideration to the establishing of such policies with respect to prices, terms, and conditions as it determines will not discourage or deter manufacturers, processors, and dealers from acquiring and carrying normal inventories of the commodity of the current crop. The Corporation shall not sell any basic agricultural commodity or storable non-basic commodity at less than 5 per centum above the current support price for such commodity, plus reasonable carrying charges: *Provided,* That effective with the beginning of the marketing year for the 1961 crop, the Corporation shall not sell any upland or extra long staple cotton for unrestricted use at less than 15 per centum above the current support price for cotton plus reasonable carrying charges, except that the Corporation may, in an orderly manner and so as not to affect market prices unduly, sell for unrestricted use at the market price at the time of sale a number of bales of cotton equal to the number of bales by which the national marketing quota for such marketing year is reduced below the estimated domestic consumption and exports for such marketing year pursuant to the provisions of section 1342 of this title: *Provided further,* That beginning August 1, 1964, the Commodity Credit Corporation may sell upland cotton for unrestricted use at not less than 105 per centum of the current loan rate for such cotton under section 1444(a) of this title plus reasonable carrying charges: *Provided,* That the Corporation shall not sell any of its stocks of wheat, corn, grain sorghum, barley, oats, and rye, respectively, at less than 115 per centum of the current national average loan rate for the commodity, adjusted for such current market differentials reflecting grade, quality, location, and other value factors as the Secretary determines appropriate, plus reasonable carrying charges. The foregoing restrictions shall not apply to (A) sales for new or byproduct uses; (B) sales of peanuts and oilseeds for the extraction of oil; (C) sales for seed or feed if such sales will not substantially impair any price-support program; (D) sales of commodities which have substantially deteriorated in quality or as to which there is a danger of loss or waste through deterioration or spoilage; (E) sales for the purpose of establishing claims arising out of contract or against persons who have committed fraud, misrepresentation, or other wrongful acts with respect to the commodity; (F) sales for export; (G) sales of wool; and (H) sales for other than primary uses. Notwithstanding the foregoing, the Corporation, on such terms and conditions as the Secretary may deem in the public interest, shall make available any farm commodity or product thereof owned or controlled by it for use in relieving distress (1) in any area in the United States including the Virgin Islands declared by the President to be an acute distress area because of unemployment or other economic cause if the President finds that such use will not displace or interfere with normal marketing of agricultural commodities and (2) in connection with any major disaster determined by the President to warrant assistance by the Federal Government under Public Law 875, Eighty-first Congress, as amended, and shall make feed owned or controlled by it available at any price not less than 75 per centum of the current basic county loan rate (or a comparable price if there is no current basic county loan rate) for assistance in the preservation and maintenance of foundation herds of cattle (including producing dairy cattle), sheep and goats, and their offspring, in any area of the United States including the Virgin Islands where, because of flood, drought, fire, hurricane, earthquake, storm, disease, insect infestation, or other catastrophe in such areas, the Secretary determines that an emergency exists which warrants such assistance, such feed to be made available only to persons who do not have, and are unable to obtain through normal channels of trade without undue financial hardship, sufficient feed for such lifestock: *Provided,* That the Secretary may provide for the furnishing of feed or mixed feed, in accordance with regulations prescribed by him, to such persons by feed dealers under an arrangement whereby the feed grains (or other feed being sold by the Corporation) in the feed so furnished would be replaced with feed owned or controlled by the Corporation and sold to such persons at a price determined as provided above. Except on a reimbursable basis, the Corporation shall not bear any costs in connection with making such commodity available beyond the cost of the commodities to the Corporation in store and the handling and transportation costs in making delivery of the commodity to

designated agencies at one or more central locations in each State or other area. Nor shall the foregoing restrictions apply to sales or commodities the disposition of which is desirable in the interest of the effective and efficient conduct of the Corporation's operations because of the small quantities involved, or because of age, location or questionable continued storability, but such sales shall be offset by such purchases of commodities as the Corporation determines are necessary to prevent such sales from substantially impairing any price-support program or unduly affecting market prices, but in no event shall the purchase price exceed the Corporation's minimum sales price for such commodities for unrestricted use. For the purposes of this section, sales for export shall not only include sales made on condition that the identical commodities sold be exported, but shall also include sales made on condition that commodities of the same kind and of comparable value or quantity be exported, either in raw or processed form. Notwithstanding any other provision of law, (1) the Commodity Credit Corporation shall sell upland cotton for unrestricted use at the same prices as it sells cotton for export, in no event, however, at less than 110 per centum of the loan rate for Middling one-inch upland cotton (micronaire 3.5 through 4.9) adjusted for such current market differentials reflecting grade, quality, location, and other value factors as the Secretary determines appropriate plus reasonable carrying charges and (2) the Commodity Credit Corporation shall sell or make available for unrestricted use at current market prices in each marketing year a quantity of upland cotton equal to the amount by which the production of upland cotton is less than the estimated requirements for domestic use and for export for such marketing year. The Secretary may make such estimates and adjustments therein at such times as he determines will best effectuate the provisions of part (2) of the foregoing sentence and such quantities of cotton as are required to be sold under such sentence shall be offered for sale in an orderly manner and so as not to affect market prices unduly. Notwithstanding any other provision of this section, effective August 1, 1968, the Commodity Credit Corporation shall make available during each marketing year for sale for unrestricted use at market prices at the time of sale, a quantity of American grown extra long staple cotton equal to the amount by which the production of such cotton in the calendar year in which such marketing year begins is less than the estimated requirements of American grown extra long staple cotton for domestic use and for export for such marketing year: *Provided*, That no sales shall be made at less than 115 per centum of the loan rate for extra long staple cotton under section 1441(f) of this title beginning with the marketing year for the first crop for which the national marketing quota for extra long staple cotton is not established under paragraph (3) of section 1347(b) of this title. The Secretary may make such estimates and adjustments therein at such times as he determines will best effectuate the provisions of the foregoing sentence and such quantities of cotton as are required to be sold under such sentence shall be offered for sale in an orderly manner and so as not to affect market prices unduly.

(Oct. 31, 1949, ch. 792, title IV, § 407, 63 Stat. 1055; July 10, 1954, ch. 469, title III, § 301, 68 Stat. 458; July 29, 1954, ch. 643, 68 Stat. 583; Jan. 28, 1956, ch. 14, 70 Stat. 6; Aug. 28, 1958, Pub. L. 85-835, title I, § 109, 72 Stat. 993: Aug. 7, 1961, Pub. L. 87-127, 75 Stat. 293; Sept. 27, 1962, Pub. L. 87-703, title III, § 325(2), title IV, § 404, 76 Stat. 631, 632; Apr. 11, 1964, Pub. L. 88-297, title I, § 104, title II, § 204, 78 Stat. 175, 183; Sept. 11, 1964, Pub. L. 88-585, § 1, 78 Stat. 927; Nov. 3, 1965, Pub. L. 89-321, title IV, § 404, 79 Stat. 1197; Nov. 11, 1966, Pub. L. 89-808, § 3(e), 80 Stat. 1538; Aug. 11, 1968, Pub. L. 90-475, § 7, 82 Stat. 703; Oct. 11, 1968, Pub. L. 90-559, § 1(5), 82 Stat. 996; Nov. 30, 1970, Pub. L. 91-524, title IV, § 409, title VI, § 603, 84 Stat. 1367, 1377.)

REFERENCES IN TEXT

Public Law 875, Eighty-first Congress, as amended, referred to in text, is act Sept. 30, 1950, ch. 1125, 64 Stat. 1109 (42 U.S.C. 1855-1855g), and was repealed by section 302(1) of the Disaster Relief Act of 1970 (Pub. L. 91-606, Dec. 31, 1970, 84 Stat. 1744; 42 U.S.C. 4401 et seq.). Section 301(1) of the Disaster Relief Act of 1970 provided in part that references in other laws to the 1950 Act shall be deemed a reference to the Disaster Relief Act of 1970. The Disaster Relief Act of 1970 was repealed by section 603 of the Disaster Relief Act of 1974 (Pub. L. 93-288, May 22, 1974, 88 Stat. 143; 42 U.S.C. 5121 et seq.). Section 602(m) of the Disaster Relief Act of 1974 provided in part that references in other laws to the 1970 Act shall be deemed a reference to the Disaster Relief Act of 1974.

CODIFICATION

Provision that whenever prior to Dec. 31, 1963, the Secretary determined it necessary in order to insure a milk supply free of radioactive contamination, he could make feed owned or controlled by the Commodity Credit Corporation available to milk producers in the United States at prices and terms he deemed in the public interest, was omitted as obsolete.

AMENDMENTS

1970—Pub. L. 91-524 established a floor for sales of wheat and feed grains in inventory for unrestricted use at 115 per centum of the current national average loan rate for the commodity adjusted for current market differentials reflecting grade, quality, location, and other value factors, plus reasonable carrying charges, changed the price at which purchases must be made to offset sales in the interest of the efficient conduct of the Corporation's operations to an amount not exceeding the minimum sales price for the commodity for unrestricted use, and provided for sale of upland cotton by the Corporation for unrestricted use at the same prices as it sold for export, in no event, however, at less than 110 percent of the loan rate for Middling one-inch cotton (micronaire 3.5 through 4.9) adjusted for such current market differentials reflecting grade, quality, location, and other value factors as deemed appropriate by the Secretary, plus reasonable carrying charges.

1968—Pub. L. 90-559 extended termination date for sale of upland cotton from July 31, 1970, to July 31, 1971.

Pub. L. 90-475 required that notwithstanding any other provision of this section, effective Aug. 1, 1968, the Commodity Credit Corporation make available for sale for unrestricted use at current market prices a quantity of American grown extra long staple cotton equal to the specified amount, with the proviso that beginning with the marketing year for which the national marketing quota is not established pursuant to section 1347(b)(3) of this title, no sales shall be made at less than 115 percent of the loan rate for extra long

staple cotton under section 1441(f) of this title, and required the Secretary to make adjustments in the quantities of cotton to be made available.

1966—Pub. L. 89-808 added proviso to third sentence prohibiting, whenever carryover at end of any marketing year of a price supported agricultural commodity for which a voluntary adjustment program is in effect will be less than 25 per centum (35 per centum in the case of wheat) of the estimated export and domestic consumption of such commodity during such marketing year, sale of CCC stocks of such commodity during such year for unrestricted use at less than 115 per centum (120 per centum in the case of wheat whenever its carryover will be less than 25 per centum of such estimated export and domestic consumption) of the current price support loan plus reasonable carrying charges.

1965—Pub. L. 89-321 requires that notwithstanding any other provision of this section, for the period August 1, 1966, through July 31, 1970, (1) the Commodity Credit Corporation shall sell upland cotton for unrestricted use at the same prices as it sells cotton for export, in no event, however, at less than 110 per centum of the loan rate, and (2) the Commodity Credit Corporation shall sell or make available for unrestricted use at current market prices in each marketing year a quantity of upland cotton equal to the amount by which the production of upland cotton is less than the estimated requirements for domestic use and for export for such marketing year, permitted the Secretary to make such estimates and adjustments therein at such times as he determines will best effectuate the provisions of part (2) of the foregoing sentence, and required such quantities of cotton as are required to be sold under such sentence to be offered for sale in an orderly manner and so as not to affect market prices unduly.

1964—Pub. L. 88-585 provided that the Corporation, in providing feed to distressed areas, may charge not less than 75 percent of the current basic county support rate including the value of any applicable price support payment in kind, included the Virgin Islands within those areas where such feed can be made obtainable, authorized the Secretary to provide feed by feed dealers under such arrangement that the feed so furnished would be replaced with feed owned or controlled by the Corporation and sold to such persons, and inserted "or other area" following "one or more central locations in each State".

Pub. L. 88-297 provided that beginning Aug. 1, 1964, the CCC may sell upland cotton for unrestricted use at not less than 105 per centum of the current loan rate for such cotton under section 1444(a) of this title plus reasonable carrying charges and substituted proviso that if wheat marketing allocation program is in effect, the current price for wheat shall be the support price for wheat not accompanied by marketing certificates for proviso prescribing support price for wheat accompanied by marketing certificate and sale of wheat to be accompanied by marketing certificate, respectively.

1962—Pub. L. 87-703 prescribed that a marketing certificate accompany the support price for wheat and wheat sold and authorized the Secretary to make Commodity Credit Corporation feed available, prior to Dec. 31, 1963, to milk producers to assure supply free of radioactive fallout contamination, respectively.

1961—Pub. L. 87-127 empowered the Commodity Credit Corporation to sell, at not less than 75 percent of the current support price, feed owned or controlled by it to assist in the preservation and maintenance of foundation herds of cattle, sheep, and goats in such areas where the Secretary determines an emergency exists warranting such assistance.

1958—Pub. L. 85-835 required Corporation to sell cotton for unrestricted use at not less than 15 per centum above support price plus reasonable carrying charges, and authorized Corporation to sell at market price a number of bales equal to that by which the national marketing quota is less than domestic consumption and exports.

1956—Act Jan. 28, 1956, included as "sales for export" sales made on condition that like commodities of comparable value or quantity be exported in raw or processed form.

1954—Act July 29, 1954, exempted from the minimum price requirement any sales where disposition is desirable in the interest of effective and efficient conduct of the Corporation's operations because of the small quantities involved or because of age, location, or questionable storability.

Act July 10, 1954, added the provisions relating to the use of farm commodities and products in relieving distress.

Effective and Termination Dates of 1970 Amendment

Section 409 of Pub. L. 91-524, as amended by Pub. L. 93-86, § 1(16), Aug. 10, 1973, 87 Stat. 230, provided in part that the amendment by section 409 of Pub. L. 91-524, establishing a floor for sales of wheat and feed grains and changing the price at which purchases must be made to offset sales in the interest of the efficient conduct of the Corporation's operations, is effective only with respect to the marketing years for the 1971 through 1977 crops.

Section 603 of Pub. L. 91-524, as amended by Pub. L. 93-86, § 1(21), Aug. 10, 1973, 87 Stat. 235, provided in part that the amendment by section 603 of Pub. L. 91-524, covering the sale of upland cotton by the Corporation, is effective only with respect to the period beginning Aug. 1, 1971, and ending July 31, 1978.

Effective Date of 1966 Amendment

Amendment by Pub. L. 89-808 effective Jan. 1, 1967, see section 5 of Pub. L. 89-808, set out as a note under section 1691 of this title.

Effective Date of 1964 Amendment

Section 204 of Pub. L. 88-297, as amended by Pub. L. 89-321, title V, § 503(3), Nov. 3, 1965, 79 Stat. 1203; Pub. L. 90-559, § 1(1), Oct. 11, 1968, 82 Stat. 996, provided in part that the amendment of this section by section 204 declaring the current price for wheat to be the support price for wheat not accompanied by marketing certificates when a wheat marketing allocation program is in effect shall be effective only with respect to marketing years beginning in calendar years 1964 through 1970.

Exceptions From Transfer of Functions

Functions of the Corporations of the Department of Agriculture, the boards of directors and officers of such corporations; the Advisory Board of the Commodity Credit Corporation; and the Farm Credit Administration or any agency, officer or entity of, under, or subject to the supervision of the said Administration were excepted from the functions of officers, agencies and employees transferred to the Secretary of Agriculture by 1953 Reorg. Plan No. 2, § 1, effective June 4, 1953, 18 F.R. 3219, 67 Stat. 633, set out as a note under section 2201 of this title.

Sale of Feed for Livestock in Emergency Areas; Designation of Emergency Area; Conditions; Penalty

Pub. L. 86-299, Sept. 21, 1959, 73 Stat. 574, as amended by Pub. L. 88-585, § 3, Sept. 11, 1964, 78 Stat. 927, provided:

"That, notwithstanding the provisions of section 407 of the Agricultural Act of 1949 [this section], the Secretary of Agriculture is authorized to sell, at not less than the current basic county support rate including the value of any applicable price support payment in kind (or a comparable price if there is no current basic county support rate), any wheat, corn, oats, barley, rye, or grain sorghums (hereafter referred to as feed grains) owned by the Commodity Credit Corporation, to provide feed for livestock in any area determined by him to be an emergency area under section 2.

"SEC. 2. The Secretary may, after certification by the Governor of the State in which such area is situated of the need therefor, designate any area as an emergency area for the purposes of this Act if he determines that, as a result of flood, drought, hurricane, tornado, earthquake, or other catastrophe including disease or insect infestation, there is a shortage of feed for livestock in such area. 'State' means any State in the United States, Puerto Rico, and the Virgin Islands.

"SEC. 3. The Secretary shall not sell feed grains under this Act to any person unless he is satisfied that such person does not have, and is unable to obtain through normal channels of trade without undue financial hardship, sufficient feed for livestock owned by him, and unless such person agrees to use the feed grains only for feed for such livestock. The Secretary may provide for the furnishing of feed grains or mixed feed, in accordance with regulations prescribed by him, to any such person by a feed dealer under an arrangement whereby feed grains in the feed so furnished would be replaced with feed grains owned or controlled by the Corporation and sold to such person at a price determined as provided in section 1.

"SEC. 4. Any person who fails to carry out an agreement entered into under section 3 with respect to any feed grains purchased or furnished under this Act, or who disposes of any such feed grains other than by feeding to livestock owned by him, shall be subject to a penalty equal to but not in excess of the market value of the feed grains involved, to be recovered by the Secretary in a civil suit brought for that purpose, and in addition shall be guilty of a misdeameanor and upon conviction thereof shall be subject to a fine of not more than $1,000 or imprisonment for not more than one year."

FEED GRAIN; SALE BY CCC; TERMINATION DATE

Act Aug. 28, 1954, ch. 1041, title II, § 208, 68 Stat. 901, authorized the Commodity Credit Corporation until March 1, 1955, to sell at the point of storage any feed grain owned by the Corporation at 10 per centum above the current support price for the commodity.

AUTHORIZATION FOR COMMODITY CREDIT CORPORATION TO SELL WHEAT AND CORN

Pub. L. 85-683, Aug. 19, 1958, 72 Stat. 635, as authorizing Commodity Credit Corporation to purchase flour and cornmeal for donation and to sell, without regard to this section, an equivalent amount of wheat and corn, see note set out under section 1431 of this title.

SALE OF COMMODITIES FOR FOREIGN CURRENCIES

Sale of surplus agricultural commodities for foreign currencies, see section 1691 et seq., of this title.

EX. ORD. NO. 11336. DELEGATION OF AUTHORITY RELATING TO EMERGENCY LIVESTOCK FEED

Ex. Ord. No. 11336, Mar. 22, 1967, 32 F.R. 4489, provided:

By virtue of the authority vested in me by section 301 of Title 3 of the United States Code, and as President of the United States, it is ordered as follows:

SECTION 1. (a) The Secretary of Agriculture is hereby designated and empowered to exercise, without the approval, ratification, or other action of the President, the authority vested in the President by clause (1) of the fifth sentence of section 407 of the Agricultural Act of 1949, as amended (7 U.S.C. 1427), to the extent prescribed in subsection (b) of this section.

(b) Whenever the Secretary of Agriculture determines that the chronic economic distress of the needy members of an Indian tribe is materially increased by severe drought, flood, hurricane, blizzard, or other uncontrollable catastrophe affecting any reservation or other land designated for Indian use which is utilized by members of such tribe for grazing livestock, he may, under subsection (a) of this section, declare such reservation or other land to be an acute distress area because of unemployment or other economic reasons if he finds that the use of farm commodities or the products thereof made available by the Commodity Credit Corporation for livestock feed in that area will not displace or interfere with normal marketing of agricultural commodities.

SEC. 2. Federal assistance in relieving distress, extended as a result of action by the Secretary of Agriculture under the authority delegated by section 1 of this order, shall terminate in each instance upon notice by the Secretary of Agriculture.

SEC. 3. In carrying out the provisions of this order the Secretary of Agriculture shall maintain liaison with the Secretary of the Interior and shall consult with the latter as may be appropriate.

SEC. 4. The declaration contained in the letter of the President to the Secretary of Agriculture, dated February 1, 1965, that reservation lands in Arizona, Utah and New Mexico, which are grazed in common by Indian tribes, are an acute distress area shall continue in effect until January 1, 1968, or until such earlier date as may be fixed by notice of the Secretary of Agriculture published in the Federal Register.

LYNDON B. JOHNSON.

CROSS REFERENCES

Agricultural commodity set-aside, dispositions not subject to pricing limitation, see section 1744 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1428, 1433, 1692, 1702, 1703, 1704b, 1705, 1707, 1709, 1731, 1732, 1733, 1734, 1735, 1736, 1736a, 1736b, 1744, 1853 of this title; title 50 App. section 2093.

§ 1427a. Reserve inventories for alleviation of distress of natural disaster

(a) Establishment, maintenance and disposal by Secretary; amount and nature of reserve

Notwithstanding any other provision of law, the Secretary of Agriculture shall under the provisions of this Act establish, maintain, and dispose of a separate reserve of inventories of not to exceed 75 million bushels of wheat, feed grains, and soybeans for the purpose of alleviating distress caused by a natural disaster.

Such reserve inventories shall include such quantities of grain that the Secretary deems needed to provide for the alleviation of distress as the result of a natural disaster.

(b) Acquisition of commodities through price support program

The Secretary shall acquire such commodities through the price support program.

(c) Prerequisites for sale or disposition of commodities in reserve

Except when a state of emergency has been proclaimed by the President or by concurrent resolution of Congress declaring that such reserves should be disposed of, the Secretary shall not offer any commodity in the reserve for sale or disposition.

(d) Additional authorization for disposition of commodities to relieve distress or for civil defense emergencies

The Secretary is also authorized to dispose of such commodities only for (1) use in relieving distress (a) in any State, the District of Columbia, Puerto Rico, Guam, or the Virgin Islands and (b) in connection with any major disaster determined by the President to warrant assistance by the Federal Government under Public Law 875, Eighty-first Congress, as amended, or

(2) for use in connection with a state of civil defense emergency as proclaimed by the President or by concurrent resolution of the Congress in accordance with the provisions of the Federal Civil Defense Act of 1950, as amended [50 App. U.S.C. 2251 et seq.].

(e) Sale at equivalent prices for maintenance of reserve

The Secretary may sell at an equivalent price, allowing for the customary location and grade price differentials, substantially equivalent quantities in different locations or warehouses to the extent needed to properly handle, rotate, distribute, and locate such reserve.

(f) Utilization of Commodity Credit Corporation and usual and customary channels, etc., of trade and commerce

The Secretary may use the Commodity Credit Corporation to the extent feasible to fulfill the purposes of this section; and to the maximum extent practicable consistent with the fulfillment of the purposes of this section and the effective and efficient administration of this section shall utilize the usual and customary channels, facilities, and arrangements of trade and commerce.

(g) Rules and regulations

The Secretary may issue such rules and regulations as may be necessary to carry out the provisions of this section.

(h) Authorization of appropriations

There is hereby authorized to be appropriated such sums as may be necessary to carry out the purposes of this section.

(Pub. L. 91-524, title VIII, § 813, as added Pub. L. 93-86, § 1(27)(B), Aug. 10, 1973, 87 Stat. 239.)

REFERENCES IN TEXT

This Act, referred to in subsec. (a), is the Agricultural Act of 1970. For classification of this Act to the Code, see Short Title of 1970 Amendment note set out under section 1305 of this title and Tables volume.

Public Law 875, Eighty-first Congress, as amended, referred to in subsec. (d), is act Sept. 30, 1950, ch. 1125, 64 Stat. 1109 (42 U.S.C. 1855-1855g), and was repealed by section 302(1) of the Disaster Relief Act of 1970 (Pub. L. 91-606, Dec. 31, 1970, 84 Stat. 1744; 42 U.S.C. 4401 et seq.). Section 301(1) of the Disaster Relief Act of 1970 provided in part that references in other laws to the 1950 Act shall be deemed a reference to the Disaster Relief Act of 1970. The Disaster Relief Act of 1970 was repealed by section 603 of the Disaster Relief Act of 1974 (Pub. L. 93-288, May 22, 1974, 88 Stat. 143; 42 U.S.C. 5121 et seq.). Section 602(m) of the Disaster Relief Act of 1974 provided in part that references in other laws to the 1970 Act shall be deemed a reference to the Disaster Relief Act of 1974.

CODIFICATION

Section comprises a part of the Agricultural Act of 1970 as added by the Agriculture and Consumer Protection Act of 1973, and not a part of the Agricultural Act of 1949 which is classified in part to this chapter. For complete classification of the 1949 Act to the Code, see Short Title note set out under section 1421 of this title and Tables volume.

§ 1428. Definitions

For the purposes of this Act—

(a) A commodity shall be considered storable upon determination by the Secretary that, in normal trade practice, it is stored for substantial periods of time and that it can be stored under the price-support program without excessive loss through deterioration or spoilage or without excessive cost for storage for such periods as will permit its disposition without substantial impairment of the effectiveness of the price-support program.

(b) A "cooperator" with respect to any basic agricultural commodity shall be a producer on whose farm the acreage planted to the commodity does not exceed the farm acreage allotment for the commodity under subchapter II of chapter 35 of this title, or in the case of price support for corn or wheat to a producer outside the commercial corn-producing or wheat-producing area, a producer who complies with conditions of eligibility prescribed by the Secretary: *Provided,* That for upland cotton a cooperator shall be a producer on whose farm the acreage planted to such cotton does not exceed the cooperator percentage, which shall be in the case of the 1966 crop, 87.5 per centum of such farm acreage allotment and, in the case of each of the 1967 through 1970 crops, such percentage, not less than 87.5 or more than 100 per centum, of such farm acreage allotment as the Secretary may specify for such crop, except that in the case of small farms (i.e. farms on which the acreage allotment is 10 acres or less, or on which the projected farm yield times the acreage allotment is 3,600 pounds or less, and the acreage allotment has not been reduced under section 1344(m) of this title) the acreage of cotton on the farm shall not be required to be reduced below the farm acreage allotment: *And provided,* That for the 1971 through 1977 crops of upland cotton a cooperator shall be a producer on a farm on which a farm base acreage allotment has been established who has set aside the acreage required under section 1444(e) of this title: *Provided further,* That for the 1976 and 1977 crops of rice, a cooperator shall be a person who produces rice on a farm for which a farm acreage allotment has been established or to which a producer acreage allotment has been allocated and, if a set-aside is in effect, who has set aside any acreage required under section 1441(g) of this title. For the purpose of this subsection, a producer shall not be deemed to have exceeded his farm acreage allotment unless such producer knowingly exceeded such allotment.

(c) A "basic agricultural commodity" shall mean corn, cotton, peanuts, rice, tobacco, and wheat, respectively.

(d) A "nonbasic agricultural commodity" shall mean any agricultural commodity other than a basic agricultural commodity.

(e) The "supply percentage" as to any commodity shall be the percentage which the estimated total supply is of the normal supply as determined by the Secretary from the latest available statistics of the Department of Agriculture as of the beginning of the marketing year for the commodity.

(f) "Total supply" of any nonbasic agricultural commodity for any marketing year shall be the carry-over at the beginning of such marketing year, plus the estimated production of the commodity in the United States during the calendar year in which such marketing year begins and the estimated imports of the commodity into the United States during such marketing year.

(g) "Carry-over" of any nonbasic agricultural commodity for any marketing year shall be the quantity of the commodity on hand in the United States at the beginning of such marketing year, not including any part of the crop or production of such commodity which was produced in the United States during the calendar year then current. The carryover of any such commodity may also include the quantity of such commodity in processed form on hand in the United States at the beginning of such marketing year, if the Secretary determines that the inclusion of such processed quantity of the commodity is necessary to effectuate the purposes of this Act.

(h) "Normal supply" of any nonbasic agricultural commodity for any marketing year shall be (1) the estimated domestic consumption of the commodity for the marketing year for which such normal supply is being determined, plus (2) the estimated exports of the commodity for such marketing year, plus (3) an allowance for carry-over. The allowance for carry-over shall be the average carry-over of the commodity for the five marketing years immediately preceding the marketing year in which such normal supply is determined, adjusted for surpluses or deficiencies caused by abnormal conditions, changes in marketing conditions, or the operation of any agricultural program. In determining normal supply, the Secretary shall make such adjustments for current trends in consumption and for unusual conditions as he may deem necessary.

(i) "Marketing year" for any nonbasic agricultural commodity means any period determined by the Secretary during which substantially all of a crop or production of such commodity is normally marketed by the producers thereof.

(j) Any term defined in the Agricultural Adjustment Act of 1938 [7 U.S.C. 1281 et seq.], shall have the same meaning when used in this Act.

(k) References made in sections 1422, 1423, 1426, and 1431 of this title to the terms "support price," "level of support," and "level of price support" shall be considered to apply as well to the level of loans and purchases for wheat and feed grains under this Act; and references made to the terms "price support," "price support operations," and "price support program" in such sections and in section 1421(a) of this title shall be considered as applying as well to the loan and purchase operations for wheat and feed grains under this Act.

(*l*) Reference made in sections 1422, 1423, 1426, and 1431 of this title to the terms "support price," "level of support," and "level of price support" shall be considered to apply as well to the level of loans and purchases for upland cotton under this Act; and references made to the terms "price support," "price support operations," and "price support program" in such sections and in section 1421(a) of this title shall be considered as applying as well to the loan and purchase operations for upland cotton under this Act.

(m) Reference made in sections 1422, 1423, 1426, 1427, and 1431 of this title to terms "support price", "level of support", and "level of price support" shall be considered to apply as well to the level of loans and purchases for rice under this Act, and references made to the terms "price support", "price support operation", and "price support program" in such sections and in section 1421(a) of this title shall be considered as applying as well to the loan and purchase operations for such rice in this Act.

(Oct. 31, 1949, ch. 792, title IV, § 408, 63 Stat. 1055; Aug. 28, 1954, ch. 1041, title II, § 209, 68 Stat. 901; Nov. 3, 1965, Pub. L. 89-321, title IV, § 402(b), 79 Stat. 1197; Oct. 11, 1968, Pub. L. 90-559, § 1(4), 82 Stat. 996; Nov. 30, 1970, Pub. L. 91-524, title IV, § 408, title VI, §§ 604, 607, 84 Stat. 1367, 1378; Aug. 10, 1973, Pub. L. 93-86, § 1(22), 87 Stat. 235; Feb. 16, 1976, Pub. L. 94-214, title III, §§ 303, 304, 90 Stat. 187, 188.)

REFERENCES IN TEXT

This Act, referred to in text, is the Agricultural Act of 1949, act Oct. 31, 1949, ch. 792, 63 Stat. 1051. For classification of this Act to the Code, see Short Title note set out under section 1421 of this title and Tables volume.

The Agricultural Adjustment Act of 1938, referred to in subdiv. (j), is act Feb. 16, 1938, ch. 30, 52 Stat. 31, which is classified generally to chapter 35 (§ 1281 et seq.) of this title. For complete classification of this Act to the Code, see Tables volume.

AMENDMENTS

1976—Subdiv. (b). Pub. L. 94-214, § 303, added proviso defining "cooperator" for 1976 and 1977 crops of rice.

Subsec. (m). Pub. L. 94-214, § 304, added subdiv. (m).

1973—Subdiv. (b). Pub. L. 93-86 substituted "1971 through 1977" for "1971, 1972, and 1973" in the proviso requiring that for such designated crops of upland cotton a cooperator shall be a producer on a farm on which a farm base acreage allotment has been established who has set aside the acreage required under section 1444(e) of this title.

1970—Subdiv. (b). Pub. L. 91-524, § 604, added proviso that, for the 1971, 1972, and 1973 crops of upland cotton, a cooperator shall be a producer on a farm on which a farm base acreage allotment has been established who has set aside the acreage required under section 1444(e) of this title.

Subdiv. (k). Pub. L. 91-524, § 408, added subdiv. (k).

Subdiv. (*l*). Pub. L. 91-524, § 607, added subdiv. (*l*).

1968—Subdiv. (b). Pub. L. 90-559 provided for a one year extension, substituting "1967 through 1970" for "1967, 1968, and 1969".

1965—Subdiv. (b). Pub. L. 89-321 added the proviso in subdiv. (b).

1954—Subdiv. (b). Act Aug. 28, 1954, inserted "or wheat" after "corn", and "or wheat-producing" after "corn producing".

EFFECTIVE DATE OF 1976 AMENDMENT

Section 304 of Pub. L. 94-214 provided in part that enactment of subdiv. (m) of this section by such section 304 be effective only with respect to the 1976 and 1977 crops of rice.

EFFECTIVE AND TERMINATION DATES OF 1970 AMENDMENT

Sections 408 and 607 of Pub. L. 91-524, as amended by section 1(15), (22) of Pub. L. 93-86, provided in part that the amendments by sections 408 and 607 of Pub. L. 91-524 are effective only with respect to the 1971 through 1977 crops.

EFFECTIVE DATE OF 1965 AMENDMENT

Section 402(b) of Pub. L. 89-321, as amended by Pub. L. 90-559, § 1(1), Oct. 11, 1968, 82 Stat. 996, provided in part that the amendment of subdiv. (b) of this section by section 402(b) of Pub. L. 89-321 is effective only for the 1966 through 1970 crops.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1444 of this title; title 43 sections 615nn, 615qq, 615vvv, 615bbbb, 615iiii.

§ 1429. Determinations of Secretary as final and conclusive

Determinations made by the Secretary under this Act shall be final and conclusive: *Provided*, That the scope and nature of such determinations shall not be inconsistent with the provisions of the Commodity Credit Corporation Charter Act [15 U.S.C. 714 et seq.].

(Oct. 31, 1949, ch. 792, title IV, § 412, 63 Stat. 1057.)

REFERENCES IN TEXT

This Act, referred to in text is the Agricultural Act of 1949, act Oct. 31, 1949, ch. 792, 63 Stat. 1051. For classification of this Act to the Code, see Short Title note set out under section 1421 of this title and Tables volume.

The Commodity Credit Corporation Charter Act, referred to in text, is act June 29, 1948, ch. 704, 62 Stat. 1070, which is classified generally to subchapter II (§ 714 et seq.) of chapter 15 of Title 15, Commerce and Trade. For complete classification of this Act to the Code, see Tables volume.

§ 1430. Retroactive effect

This Act shall not be effective with respect to price support operations for any agricultural commodity for any marketing year or season commencing prior to January 1, 1950, except to the extent that the Secretary of Agriculture shall, without reducing price support theretofore undertaken or announced, elect to apply the provisions of this Act.

(Oct. 31, 1949, ch. 792, title IV, § 413, 63 Stat. 1057.)

REFERENCES IN TEXT

This Act, referred to in text, is the Agricultural Act of 1949, act Oct. 31, 1949, ch. 792, 63 Stat. 1051. For classification of this Act to the Code, see Short Title note set out under section 1421 of this title and Tables volume.

§ 1431. Disposition of commodities to prevent waste; eligible recipients; barter; estimates; reprocessing and other charges

In order to prevent the waste of commodities whether in private stocks or acquired through price-support operations by the Commodity Credit Corporation before they can be disposed of in normal domestic channels without impairment of the price-support program or sold abroad at competitive world prices, the Commodity Credit Corporation is authorized, on such terms and under such regulations as the Secretary of Agriculture may deem in the public interest: (1) upon application, to make such commodities available to any Federal agency for use in making payment for commodities not produced in the United States; (2) to barter or exchange such commodities for strategic or other materials as authorized by law; (3) in the case of food commodities to donate such commodities to the Bureau of Indian Affairs and to such State, Federal, or private agency or agencies as may be designated by the proper State or Federal authority and approved by the Secretary, for use in the United States in nonprofit school-lunch programs, in nonprofit summer camps for children, in the assistance of needy persons, and in charitable institutions, including hospitals, to the extent that needy persons are served. In the case of clause (3) the Secretary shall obtain such assurance as he deems necessary that the recipients thereof will not diminish their normal expenditures for food by reason of such donation. In order to facilitate the appropriate disposal of such commodities, the Secretary may from time to time estimate and announce the quantity of such commodities which he anticipates will become available for distribution under clause (3). The Commodity Credit Corporation may pay, with respect to commodities disposed of under this section, reprocessing, packaging, transporting, handling, and other charges accruing up to the time of their delivery to a Federal agency, or to the designated State or private agency. In addition, in the case of food commodities disposed of under this section, the Commodity Credit Corporation may pay the cost of processing such commodities into a form suitable for home or institutional use, such processing to be accomplished through private trade facilities to the greatest extent possible. For the purpose of this section the terms "State" and "United States" include the District of Columbia and any Territory or possession of the United States. Dairy products acquired by the Commodity Credit Corporation through price support operations may, insofar as they can be used in the United States in nonprofit school lunch and other nonprofit child feeding programs, in the assistance of needy persons, and in charitable institutions, including hospitals, to the extent that needy persons are served, be donated for any such use prior to any other use or disposition. No person who is eligible (or upon application would be eligible) to receive supplemental security income under title XVI of the Social Security Act [42 U.S.C. 1381 et seq.] shall be eligible to participate in any program conducted under this section (other than nonprofit child feeding programs or programs under which commodities are distributed on an emergency or temporary basis and eligibility for participation therein is not based upon the income or resources of the individual or family).

(Oct. 31, 1949, ch. 792, title IV, § 416, 63 Stat. 1058; July 10, 1954, ch. 469, title III, § 302, 68 Stat. 458; May 28, 1956, ch. 327, title II, § 212, 70 Stat. 203; July 2, 1958, Pub. L. 85-483, § 1, 72 Stat. 286; Aug. 26, 1954, ch. 937, title II, § 402, 68 Stat. 843; July 24, 1959, Pub. L. 86-108, ch. II, § 205(c), 73 Stat. 250; Sept. 27, 1962, Pub. L. 87-703, title II, § 202, 76 Stat. 611; Oct. 8, 1964, Pub. L. 88-638, § 4, 78 Stat. 1038; Nov. 11, 1966, Pub. L. 89-808, § 3(c), 80 Stat. 1538; Apr. 17, 1970, Pub. L. 91-233, 84 Stat. 199; Oct. 30, 1972, Pub. L. 92-603, title IV, § 411(g), 86 Stat. 1492.)

REFERENCES IN TEXT

Title XVI of the Social Security Act, referred to in text, is title XVI of act Aug. 14, 1935, ch. 531, as added by Pub. L. 92-603, title III, § 301, 86 Stat. 1465, and is classified generally to subchapter XVI (§ 1381 et seq.) of chapter 7 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Tables volume.

AMENDMENTS

1972—Pub. L. 92-603 added provision that persons eligible to receive supplemental security income under title XVI of the Social Security Act [42 U.S.C. 1381 et seq.] shall not be eligible to participate in programs conducted under this section, with certain exceptions.

1970—Pub. L. 91-233 changed priorities for sales over donations in the disposition of food commodities acquired under support programs insofar as dairy products, so acquired, are concerned by giving preference to the use of such products in nonprofit school lunch and similar feeding programs.

1966—Pub. L. 89-808 struck out provisions of cl. (4) for donations of excess food commodities to nonprofit voluntary agencies registered with the Committee on Voluntary Foreign Aid of the Foreign Operations Administration or other appropriate Federal agencies and intergovernmental organizations for use in assistance of needy persons and in nonprofit lunch programs outside the United States provisions for payment of charges in case of commodities made available for use within the United States, or their delivery free alongside ship or free on board export carrier at point of export, in the case of commodities made available for use outside the United States, and that assistance to needy persons provided in such cl. (4) be directed toward community and other self-help activities designed to alleviate the causes for the need for such assistance, now covered by section 1721 et seq. of this title.

1964—Pub. L. 88-638 directed that the assistance to needy persons, insofar as practicable, be directed toward community and other self-help activities designed to alleviate the causes of the need.

1962—Pub. L. 87-703 inserted "and in nonprofit school lunch programs" after "needy persons" in clause (4).

1959—Pub. L. 86-108 substituted "waste of commodities whether in private stocks or acquired through price-support operations" for "waste of commodities acquired through price-support operations".

1958—Pub. L. 85-483 permitted donation of food commodities for use in nonprofit summer camps for children.

1956—Act May 28, 1956, authorized payment of the cost of processing commodities into a form suitable for home or institutional use.

1954—Act July 10, 1954, amended section generally to eliminate its applicability only to "food" commodities; to eliminate the necessity for a finding that commodities are in danger of a loss through "deterioration or spoilage"; to establish barter as a disposal method; and to expand the list of eligible domestic recipients.

EFFECTIVE DATE OF 1972 AMENDMENT

Section 411(g) of Pub. L. 92-603 provided in part that the amendment of this section is effective Jan. 1, 1974.

Pub. L. 93-233, § 8(b)(2), Dec. 30, 1973, 87 Stat. 956, as amended by Pub. L. 93-335, § 1(b), July 8, 1974, 88 Stat. 291; Pub. L. 94-44, § 3(b), June 28, 1975, 89 Stat. 235; Pub. L. 94-365, § 2(2), July 14, 1976, 90 Stat. 990, provided that: "The last sentence of section 416 of the act of October 31, 1949 [this section] (as added by section 411(g) of Public Law 92-603 [see 1972 Amendment Note above] shall not be effective for the period ending June 30, 1977."

EFFECTIVE DATE OF 1966 AMENDMENT

Section 3(c) of Pub. L. 89-808 provided in part that the amendment of this section by Pub. L. 89-808 shall be effective Jan. 1, 1967.

EXCEPTIONS FROM TRANSFER OF FUNCTIONS

Functions of the Corporations of the Department of Agriculture, the boards of directors and officers of such corporations; the Advisory Board of the Commodity Credit Corporation; and the Farm Credit Administration or any agency, officer or entity of, under, or subject to the supervision of the said Administration were excepted from the functions of officers, agencies and employees transferred to the Secretary of Agriculture by 1953 Reorg. Plan No. 2, § 1, effective June 4, 1953, 18 F.R. 3219, 67 Stat. 633, set out as a note under section 2201 of this title.

COMMODITY DISTRIBUTION PROGRAM; PURCHASE OF AGRICULTURAL COMMODITIES WITH UNEXPECTED OR AVAILABLE FUNDS; PROHIBITION ON FURNISHING COMMODITIES TO SUMMER CAMPS; PARTICIPATION IN PROGRAM OF INDIVIDUAL RECEIVING SUPPLEMENTAL SECURITY INCOME BENEFITS

Authority of Secretary to purchase and furnish agricultural commodities under commodity distribution programs and participation of individuals receiving supplemental security income benefits in such programs, see section 4 of Pub. L. 93-86, Aug. 10, 1973, 87 Stat. 249, set out as a note under section 612c of this title.

ELIGIBILITY OF SUPPLEMENTAL SECURITY INCOME RECIPIENTS FOR FOOD STAMPS DURING PERIOD ENDING JUNE 30, 1977

Individuals receiving supplemental security income benefits not to be considered members of households for any purpose of the food distribution program for families under this section for any month during the period ending June 30, 1977, if, for such month, such individual resides in a State which provides State supplementary payments of the type described in section 1382e(a) of Title 42, The Public Health and Welfare, and the level of which has been found by the Secretary of Health, Education, and Welfare to have been specifically increased so as to include the bonus value of food stamps.

HOME ECONOMICS TRAINING

Pub. L. 86-756, Sept. 13, 1960, 74 Stat. 899, as amended by Pub. L. 87-179, Aug. 30, 1961, 75 Stat. 411 provided: "That schools receiving surplus foods pursuant to clause (3) of section 416 of the Agricultural Act of 1949 (7 U.S.C. 1431) [clause (3) of this section] or section 32 of the Act of August 24, 1935, as amended (7 U.S.C. 612c) are authorized to use such foods in training students in home economics, including college students if the same facilities and instructors are used for training both high school and college students in home economics courses."

AUTHORIZATION FOR COMMODITY CREDIT CORPORATION TO PURCHASE AND DONATE FLOUR, CORNMEAL AND PROCESSED FOOD GRAIN PRODUCTS

Pub. L. 85-683, Aug. 19, 1958, 72 Stat. 635, as amended by Pub. L. 88-550, Aug. 31, 1964, 78 Stat. 755, provided: "That at any time Commodity Credit Corporation has any grain available for donation pursuant to clause (3) or (4) [now deleted] of section 416 of the Agricultural Act of 1949, as amended [this section], section 210 of the Agricultural Act of 1956 [section 1859 of this title], or title II of the Agricultural Trade Development and Assistance Act, as amended [sections 1721 to 1726 of this title], the Corporation, in lieu of processing all or any part of such grain into human food products, may purchase such processed food products in quantities not to exceed the equivalent of the respective grain available for donation on the date of such purchase and donate such processed food products pursuant to clause (3) or (4) of such section 416, and to such section 210, and make such processed food products available to the President pursuant to such title II, and may sell, without regard to the provisions of section 407 of the Agricultural Act of 1949, as amended [section 1427 of this title], a quantity of the grain equivalent to the processed food products so purchased: *Provided*, That no food product purchased pursuant to the authority contained herein shall constitute less than 50 per centum by weight of the grain from which processed, or contain any additive other than for normal vitamin enrichment, preservative, and bleaching purposes."

IRISH POTATOES ACQUIRED UNDER 1949 PRICE SUPPORT PROGRAM

Section 3 of act Mar. 31, 1950, ch. 81, 64 Stat. 41, made Irish potatoes acquired under the 1949 price support program available to school-lunch programs, the Bureau of Indian Affairs, Federal, State, or local public welfare organizations, private or international nonprofit welfare organizations, penal institutions, and nonprofit hospitals.

BARTERING AUTHORITY OF SECRETARY

Bartering authority of Secretary of Agriculture, exchange of agricultural commodities for strategic materials and materials for other purposes, cooperation of agencies, and assistance to cooperatives, see section 1692 of this title.

CROSS REFERENCES

Donations for school feeding programs abroad; student financing; and priorities, see section 1431d of this title.

Sale of surplus agricultural commodities for foreign currencies, see section 1691 et seq., of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1428, 1431b, 1431c, 1431d, 1446a, 1692, 1702, 1703, 1704b, 1705, 1707, 1709, 1731, 1732, 1733, 1734, 1735, 1736, 1736a, 1736b of this title; title 22 section 1922; title 42 sections 1755, 1758, 1761, 1762a, 1766, 1777, 3045f.

§ 1431a. Cotton donations to educational institutions

Commodity Credit Corporation is authorized, on such terms as the Secretary of Agriculture may approve, to donate cotton acquired through its price support operations to educational institutions for use in the training of students in the processing and manufacture of cotton into textiles.

(Pub. L. 85-835, title V, § 505, Aug. 28, 1958, 72 Stat. 996.)

CODIFICATION

Section was enacted as a part of the Agricultural Act of 1958, and not as a part of the Agricultural Act of 1949 which is classified in part to this chapter. For complete classification of the 1949 Act to the Code, see Short Title note set out under section 1421 of this title and Tables volume.

§ 1431b. Distribution of surplus commodities to other United States areas

Notwithstanding any other provision of law those areas under the jurisdiction or administration of the United States are authorized to receive from the Department of Agriculture for distribution on the same basis as domestic distribution in any State, Territory, or possession of the United States, without exchange of funds, such surplus commodities as may be available pursuant to clause (2) of section 612c of this title and section 1431 of this title.

(Pub. L. 85-931, § 9, Sept. 6, 1958, 72 Stat. 1792; Pub. L. 87-703, title II, § 204, Sept. 27, 1962, 76 Stat. 611; Pub. L. 89-808, § 3(a), Nov. 11, 1966, 80 Stat. 1538.)

AMENDMENTS

1966—Pub. L. 89-808 deleted special authority of the Commodity Credit Corporation for purchase of fats and oils for donation abroad, now included in the general authority provided by section 1721 et seq. of this title.

1962—Pub. L. 87-703 inserted "and in nonprofit school lunch programs" after "needy persons".

EFFECTIVE DATE OF 1966 AMENDMENT

Section 3(a) of Pub. L. 89-808 provided in part that the amendment of this section by Pub. L. 89-808 shall be effective Jan. 1, 1967.

CROSS REFERENCES

Donations for school feeding programs abroad, student financing, see section 1431d of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1431d of this title.

§ 1431c. Enrichment and packaging of cornmeal, grits, rice, and white flour available for distribution

(a) In order to insure the nutritional value of cornmeal, grits, rice, and white flour when such foods are made available for distribution under section 1431(3) of this title or for distribution to schools under the National School Lunch Act [42 U.S.C. 1751 et seq.] or any other Act, such foods shall be enriched so as to meet the standards for enriched cornmeal, enriched corn grits, enriched rice, or enriched flour, as the case may be, prescribed in regulations promulgated under the Federal Food, Drug, and Cosmetic Act [21 U.S.C. 301 et seq.]; and in order to protect the nutritional value and sanitary quality of such enriched foods during transportation and storage such foods shall be packaged in sanitary containers. For convenience and ease in handling, the weight of any sanitary container when filled shall not exceed fifty pounds unless a larger container is requested by the recipient agency. Nothing in this section shall prohibit the distribution of fortified parboiled rice which is substantially equal in nutritional value to that of enriched rice.

(b) The term "sanitary container" means any container of such material and construction as (1) will not permit the infiltration of foreign matter into the contents of such container under ordinary conditions of shipping and handling, and (2) will not, for a period of at least one year, disintegrate so as to contaminate the contents of the container, necessitating the washing of the contents prior to use.

(Pub. L. 86-341, title II, § 201, Sept. 21, 1959, 73 Stat. 610; Pub. L. 87-803, Oct. 11, 1962, 76 Stat. 910.)

REFERENCES IN TEXT

The National School Lunch Act, referred to in subsec. (a), is act June 4, 1946, ch. 281, 60 Stat. 230, which is classified generally to chapter 13 (§ 1751 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 1751 of Title 42 and Tables volume.

The Federal Food, Drug, and Cosmetic Act, referred to in subsec. (a), is act June 25, 1938, ch. 675, 52 Stat. 1040, which is classified generally to chapter 9 (§ 301 et seq.) of Title 21, Food and Drugs. For complete classification of this Act to the Code, see Tables volume.

AMENDMENTS

1962—Subsec. (a). Pub. L. 87-803 inserted provisions requiring the enrichment of rice to meet the standards for enriched rice, empowered recipient agencies to request containers larger than 50 pounds, and provided that nothing in this section shall prohibit the distribution of fortified parboiled rice which is substantially equal in nutritional value to that of enriched rice.

§ 1431d. Donations for school feeding programs abroad; student financing; priorities

In any school feeding programs undertaken on and after September 27, 1962 outside the United States pursuant to section 1431 of this title, section 308 of Public Law 480 (83d Congress), as amended, and section 1431b of this title, the Secretary shall receive assurances satisfactory to him that, insofar as practicable, there will be student participation in the financing of such programs on the basis of ability to pay, and such programs shall be undertaken with the understanding that commodities will be available for those programs only in accordance with the provisions of such statutes and that commodities made available under section 1431 of this title will be available only in accordance with the priorities established in such section.

(Pub. L. 87-703, title II, § 205, Sept. 27, 1962, 76 Stat. 611.)

REFERENCES IN TEXT

Section 308 of Public Law 480 (83d Congress), referred to in text, which was classified to section 1697 of this title, was repealed by Pub. L. 89-808, § 2(D), Nov. 11, 1966, 80 Stat. 1535.

§ 1432. Extension of price support on long staple cotton seeds and products

Any price support program in effect on cottonseed or any of its products shall be extended to the same seed and products of the cottons defined under section 1347(a) of this title.

(Oct. 31, 1949, ch. 792, title IV, § 420, as added July 17, 1952, ch. 933, § 3(2), 66 Stat. 259.)

§ 1433. Penalties for misuse of feed intended to relieve distress or preserve foundation herds

Any person who disposes of any feed which has been made available to him under section 1427 of this title for use in relieving distress or for preservation and maintenance of foundation herds, other than as authorized by the Secretary, shall be subject to a penalty equal to the market value of the feed involved, to be recovered by the Secretary in a civil suit brought for that purpose, and in addition shall be guilty of a misdemeanor and upon conviction thereof shall be subject to a fine of not more than $1,000 or imprisonment for not more than one year.

(Oct. 31, 1949, ch. 792, title IV, § 421, as added Sept. 11, 1964, Pub. L. 88-585, § 2, 78 Stat. 927.)

§ 1434. Encouragement of production of crops of which United States is a net importer and for which price support programs are not in effect; authority to plant on set-aside acreage with no reduction in payment rate

Notwithstanding any other provisions of this Act, the Secretary shall encourage the production of any crop of which the United States is a net importer and for which a price support program is not in effect by permitting the planting of such crop on set-aside acreage and with no reduction in the rate of payment for the commodity.

(Pub. L. 91-524, title VIII, § 814, as added Pub. L. 93-86, § 1(27)(B), Aug. 10, 1973, 87 Stat. 240.)

REFERENCES IN TEXT

This Act, referred to in the text, is the Agricultural Act of 1970. For classification of this Act to the Code, see Short Title of 1970 Amendment note set out under section 1305 of this title and Tables volume.

CODIFICATION

Section comprises a part of the Agricultural Act of 1970 as added by the Agriculture and Consumer Protection Act of 1973, and not a part of the Agricultural Act of 1949 which is classified in part to this chapter. For complete classification of the 1949 Act to the Code, see Short Title note set out under section 1421 of this title and Tables volume.

SUBCHAPTER II—BASIC AGRICULTURAL COMMODITIES

§ 1441. Price support levels

The Secretary of Agriculture (hereinafter called the "Secretary") is authorized and directed to make available through loans, purchases, or other operations, price support to cooperators for any crop of any basic agricultural commodity, if producers have not disapproved marketing quotas for such crop, at a level not in excess of 90 per centum of the parity price of the commodity nor less than the level provided in subsections (a) to (c) of this section as follows:

(a) For tobacco (except as otherwise provided herein), corn, and wheat, if the supply percentage as of the beginning of the marketing year is:	The level of support shall be not less than the following percentage of the parity price:
Not more than 102	90
More than 102 but not more than 104	89
More than 104 but not more than 106	88
More than 106 but not more than 108	87
More than 108 but not more than 110	86
More than 110 but not more than 112	85
More than 112 but not more than 114	84
More than 114 but not more than 116	83
More than 116 but not more than 118	82
More than 118 but not more than 120	81
More than 120 but not more than 122	80
More than 122 but not more than 124	79
More than 124 but not more than 126	78
More than 126 but not more than 128	77
More than 128 but not more than 130	76
More than 130	75

For rice of the 1959 and 1960 crops, the level of support shall be not less than 75 per centum of the parity price. For rice of the 1961 crop the level of support shall be not less than 70 per centum of the parity price. For the 1962 and subsequent crops of rice the level of support shall be not less than 65 per centum of the parity price.

(b) For cotton and peanuts, if the supply percentage as of the beginning of the marketing year is:	The level of support shall be not less than the following percentage of the parity price:
Not more than 108	90
More than 108 but not more than 110	89
More than 110 but not more than 112	88
More than 112 but not more than 114	87
More than 114 but not more than 116	86
More than 116 but not more than 118	85
More than 118 but not more than 120	84
More than 120 but not more than 122	83
More than 122 but not more than 124	82
More than 124 but not more than 125	81
More than 125 but not more than 126	80
More than 126 but not more than 127	79
More than 127 but not more than 128	78
More than 128 but not more than 129	77
More than 129 but not more than 130	76
More than 130	75

(c) For tobacco, if marketing quotas are in effect, the level of support shall be 90 per centum of the parity price.

(d) Notwithstanding the foregoing provisions of this section—

(1) if producers have not disapproved marketing quotas for such crop, the level of support to cooperators shall be 90 per centum of the parity price for the 1950 crop of any basic agricultural commodity for which marketing quotas or acreage allotments are in effect;

(2) if producers have not disapproved marketing quotas for such crop, the level of support to cooperators shall be not less than 80 per centum of the parity price for the 1951 crop of any basic agricultural commodity for which marketing quotas or acreage allotments are in effect;

(3) the level of price support to cooperators for any crop of a basic agricultural commodity, except tobacco, for which marketing quotas have been disapproved by producers shall be 50 per centum of the parity price of such commodity; and no price support shall be made available for any crop of tobacco for which marketing quotas have been disapproved by producers;

(4) Repealed. Oct. 31, 1949, ch. 792, title I, § 104(b)(3), as added Aug. 28, 1958, Pub. L. 85-835, title II, § 201, 72 Stat. 994.

(5) the price support may be made available to noncooperators at such levels, not in excess of the level of price support to cooperators, as the Secretary determines will facilitate the effective operation of the program;

(6) except as provided in subsection (c) of this section and section 1422 of this title, the level of support to cooperators shall be not more than 90 per centum and not less than 82½ per centum of the parity price for the 1955 crop of any basic agricultural commodity with respect to which producers have not disapproved marketing quotas; within such limits, the minimum level of support shall be fixed as provided in subsections (a) and (b) of this section;

(7) Where a State is designated under section 1335(e) of this title, as outside the commercial wheat-producing area for any crop of wheat, the level of price support for wheat to cooperators in such State for such crop of wheat shall be 75 per centum of the level of price support to cooperators in the commercial wheat-producing area.

(e) Repealed. Pub. L. 86-389, § 2, Feb. 20, 1960, 74 Stat. 7.

(f) The provisions of this Act relating to price support for cotton shall apply severally to (1) American upland cotton and (2) extra long staple cotton described in subsection (a) of section 1347 of this title and ginned as required by subsection (e) of section 1347 of this title, except that, notwithstanding any other provision of this Act, price support shall be made available to cooperators for the 1968 and each subsequent crop of extra long staple cotton, if producers have not disapproved marketing quotas therefor, through loans at a level which is not less than 50 per centum or more than 100 per centum in excess of the loan level established for Middling one-inch upland cotton of such crop at average location in the United States (except that such loan level for extra long staple cotton shall in no event be less than 35 cents per pound) and, in addition, through price-support payments at a rate which, together with the loan level established for such crop, shall be not less than 65 per centum or more than 90 per centum of the parity price for extra long staple cotton as of the month in which the payment rate provided for by this subsection is announced. Such payment with respect to any farm shall be made on the quantity of extra long staple cotton, determined in accordance with regulations prescribed by the Secretary, equal to either (1) for a farm on which the acreage planted to such cotton does not exceed an acreage determined by multiplying the farm acreage allotment by the price-support payment factor established by the Secretary for each crop, the actual production of such cotton on the farm, or (2) for a farm on which the acreage planted to such cotton exceeds an acreage determined by multiplying the farm acreage allotment by the price-support payment factor but does not exceed the farm acreage allotment, the actual production of such cotton on the farm attributable to the number of acres determined by multiplying the farm acreage allotment by such price-support payment factor. The Secretary shall establish the price-support payment factor for each such crop of extra long staple cotton by dividing the 1966 national acreage allotment for such cotton by the national acreage allotment proclaimed for such crop, except that such factor shall not be more than one. The Secretary shall provide for the sharing of price-support payments under this subsection among producers on a farm on the basis of their respective shares in the crop of extra long staple cotton produced on the farm, or the proceeds therefrom. The provisions of section 590h(g) of title 16 (relating to assignment of payments), shall also apply to payments under this subsection. The Commodity Credit Corporation is authorized to utilize its capital funds and other assets for the purpose of making the payments authorized in this subsection and to pay administrative expenses necessary in carrying out this subsection. Disapproval by producers of the quota proclaimed under section 1347 of this title shall place into effect the provisions of subsection (d)(3) of this section with respect to the extra long staple cotton described in subsection (a) of section 1347 of this title. Nothing contained herein shall affect the authority of the Secretary under section 1422 of this title to make support available for extra long staple cotton in accordance with such section 1422 of this title.

(g) Notwithstanding any other provision of law—

(1) The established price for the purpose of making payments on rice under this subsection shall be $8 per hundredweight in the case of the 1976 crop, adjusted to reflect any changes in the index of prices paid by farmers for production items, interest, taxes, and wage rates during the period beginning on February 16, 1976, and ending July 31, 1976; for the 1977 crop the established price shall be the established price for the 1976 crop adjusted to reflect any changes in the index of prices paid by farmers for production items, interest, taxes,

and wage rates during the twelve-month period immediately preceding July 31, 1977: *Provided,* That any increase that would otherwise be made in the established price for the 1976 and 1977 crops to reflect a change in the index of prices paid by farmers may be further adjusted to reflect any change in (i) the national average yield per acre of rice for the three calendar years preceding the year for which the determination is made, over (ii) the national average yield per acre for the three calendar years preceding the year previous to the one for which the determination is made.

(2) The Secretary shall make available, to cooperators in the several States of the United States, loans and purchases on the 1976 crop of rice at a rate equal to $6 per hundredweight, adjusted to reflect any changes in the index of prices paid by farmers for production items, interest, taxes, and wage rates during the period beginning on February 16, 1976, and ending July 31, 1976: *Provided,* That any increase in the rate of loans and purchases for the 1976 crop to reflect a change in the index of prices paid by farmers may be further adjusted to reflect the change described in the proviso in paragraph (1) of this subsection. Loans and purchases for the 1977 crop shall be established at such rate as bears the same ratio to the loan rate for the 1976 crop as the established price for the 1977 crop bears to the established price for the 1976 crops. The loans and purchases for the 1976 and 1977 crops shall be made available to cooperators on a farm with respect to a quantity of rice determined by multiplying the allotment by the yield established for the farm, as determined in the manner described in the second sentence of paragraph (4) of this subsection.

(3) The Secretary shall make available to cooperators payments for each of the 1976 and 1977 crops of rice grown in the several States of the United States at a rate equal to the amount by which the established price for the crop of rice exceeds the higher of—

(A) the national average market price received by farmers during the first five months of the marketing year for such crop, as determined by the Secretary; or

(B) the loan level determined under paragraph (2) for such crop.

(4) The payments for the 1976 and 1977 crops shall be made available to cooperators on a farm with respect to a quantity of rice determined by multiplying the allotment by the yield established for the farm. The yield for the farm for any year shall be determined on the basis of the actual yields per harvested acre for the three preceding years: *Provided,* That the actual yields shall be adjusted by the Secretary for abnormal yields in any year caused by drought, flood, other natural disaster, or condition beyond the control of the cooperator. If the Secretary determines that the persons involved in producing rice on a farm are prevented from planting all or any portion of the acreage allotments of producers on the farm or farm acreage allotment to rice or other nonconserving crop, because of droughts, flood, or other natural disaster or condition beyond the control of the producer, the rate of payment with regard to such acres so affected shall be the larger of (A) the foregoing rate, or (B) one-third of the established price, except that the Secretary shall make no payment pursuant to this sentence on a farm from which acres were transferred under section 1352(d) of this title with respect to the transferred acreage. If the Secretary determines that, because of such disaster or condition, the total quantity of rice which the persons involved in producing rice are able to harvest on any farm is less than 66⅔ per centum of the acreage allotments of producers on the farm or of the farm acreage allotment times the yield of rice established for the farm, the rate of payment for the deficiency in production below 100 per centum shall be the larger of (A) the foregoing rate, or (B) one-third of the established price. Any payment made under the previous two sentences with regard to acres transferred under section 1352(d) of this title shall be calculated with respect to the farm yield established on the farm to which such acres were transferred.

(5)(A) The Secretary may provide for a set-aside of cropland for a crop of rice if he estimates (without taking into consideration the effect of a set-aside), that the carryover of rice for the marketing year beginning in the calendar year immediately following the calendar year in which such crop will be grown will exceed 15 per centum of the total supply of rice for the marketing year beginning in the calendar year in which such crop will be grown. The Secretary shall make a preliminary determination prior to the beginning of the calendar year in which such crop will be grown and a final determination not later than April 1 of the calendar year in which such crop is grown of whether a set-aside shall be in effect and, if so, the acreage of cropland required to be set aside. The determinations and estimates on which they are based shall be published in the Federal Register at the time they are made. If a set-aside of cropland is in effect under this paragraph then, as a condition of eligibility for payments, loans and purchases under this subsection, the cooperators must set aside and devote to conservation uses an acreage of cropland equal to (i) such percentage of the farm acreage allotment as may be specified by the Secretary (not to exceed 30 per centum of the farm acreage allotment), plus, if required by the Secretary, (ii) the acreage of cropland on the farm devoted in preceding years to soil conserving uses, as determined by the Secretary. The Secretary shall permit cooperators to plant and graze sweet sorghum on set-aside acreage. The Secretary may permit, subject to such terms and conditions as he may prescribe, all or any part of the set-aside acreage to be devoted to hay and grazing or the production of guar, sesame, safflower, sunflower, castor beans, mustard seed, crambe, plantago ovato, flaxseed, triticale, oats, rye, or other commodity, if he determines that such production is needed to provide an adequate supply of such commodities, is not likely to increase the cost of the price support program, and will not adversely affect farm income.

(B) To assist in adjusting the acreage of rice to desirable goals, the Secretary may make land diversion payments, in addition to the payments authorized in paragraph (3) of this sub-

section, to cooperators on a farm who, to the extent prescribed by the Secretary, devote to approved conservation uses an acreage of cropland on the farm in addition to that required to be devoted under subparagraph (A) of this paragraph. The land diversion payments for a farm shall be at such rate or rates as the Secretary determines to be fair and reasonable taking into consideration the diversion undertaken by the cooperator and the productivity of the acreage diverted. The Secretary shall limit the total acreage to be diverted under agreements in any county or local community so as not to adversely affect the economy of the county or local community.

(6) The rice program formulated under this subsection shall require the cooperators to take such measures as the Secretary may deem appropriate to protect the set-aside acreage and the additional diverted acreage from erosion, insects, weeds, and rodents. Such acreage may be devoted to wildlife food plots or wildlife habitat in conformity with standards established by the Secretary in consultation with wildlife agencies. The Secretary may pay an appropriate share of the cost of practices designed to carry out the purposes of the foregoing sentences. The Secretary may provide for an additional payment on such acreage in the amount determined by the Secretary to be appropriate in relation to the benefit to the general public if the cooperator agrees to permit, without other compensation, access to all or such portion of the farm as the Secretary may prescribe by the general public, for hunting, trapping, fishing, and hiking, subject to applicable State and Federal regulations.

(7) If the operator of the farm desires to participate in the program formulated under this subsection, he shall file his agreement to do so no later than such date as the Secretary may prescribe. Payments under this subsection shall be made available to cooperators on such farm only if such cooperators set aside and devote to approved soil conserving uses an acreage on the farm equal to the number of acres which the operator of the farm agrees to set aside and devote to approved soil conserving uses, and the agreement shall so provide. The Secretary may, by mutual agreement with the cooperators on the farm, terminate or modify any such agreement entered into pursuant to this subsection if he determines such action necessary because of any emergency created by drought or other disaster, or in order to alleviate a shortage in the supply of rice.

(8) The Secretary shall provide adequate safe guards to protect the interests of tenants and sharecroppers including provision for sharing, on a fair and equitable basis, in payments under this subsection.

(9) In the case in which the failure of a cooperator to comply fully with the terms and conditions of the program formulated under this subsection precludes the making of loans, purchases, and payments, the Secretary may, nevertheless, make such loans, purchases, and payments in such amounts as he determines to be equitable in relation to the seriousness of the default.

(10) The Secretary is authorized to issue such regulations as he determines necessary to carry out the provisions of this subsection.

(11) The Secretary shall carry out the program authorized by this subsection through the Commodity Credit Corporation.

(12) The provisions of section 590h(g) of title 16 (relating to assignment of payments) shall apply to payments under this subsection.

(13) Notwithstanding any other provision of law—

(A) The total amount of payments which a person shall be entitled to receive during a crop year under the rice program shall not exceed $55,000.

(B) The term "payments" as used in this paragraph shall not include loans or purchases, or any part of any payment which is determined by the Secretary to represent compensation for resource adjustment or public access for recreation.

(C) If the Secretary determines that the total amount of payments which will be earned by any person under the program in effect for any crop will be reduced under this section, the set-aside acreage for the farm or farms on which such persons will be sharing in payments earned under such program shall be reduced to such extent and in such manner as the Secretary determines will be fair and reasonable in relation to the amount of the payment reduction.

(D) The Secretary shall issue regulations defining the term "person" and prescribing such rules as he determines necessary to assure a fair and reasonable application of such limitation: *Provided,* That the provisions of this paragraph which limit payments to any person shall not be applicable to lands owned by States, political subdivisions, or agencies thereof, so long as such lands are farmed primarily in the direct furtherance of a public function, as determined by the Secretary. The rules for determining whether corporations and their stockholders may be considered as separate persons shall be in accordance with the regulations issued by the Secretary on December 18, 1970.

(Oct. 31, 1949, ch. 792, title I, §§ 101, 104(b)(3), 63 Stat. 1051; July 17, 1952, ch. 933, §§ 2, 3(1), 66 Stat. 759; Aug. 28, 1954, ch. 1041, title II, §§ 201–202, 68 Stat. 899; Apr. 25, 1957, Pub. L. 85–28, 71 Stat. 27; July 2, 1958, Pub. L. 85–497, 72 Stat. 296; Aug. 28, 1958, Pub. L. 85–835, title II, § 201, title III, § 302(a), 72 Stat. 993, 994; Feb. 20, 1960, Pub. L. 86–389, § 2, 74 Stat. 7; Aug. 11, 1968, Pub. L. 90–475, § 5, 82 Stat. 702; Feb. 16, 1976, Pub. L. 94–214, title I, § 102, 90 Stat. 183.)

REFERENCES IN TEXT

Subsec. (e) of section 1335 of this title, referred to in subsec. (d)(7), was eliminated and other provisions substituted by Pub. L. 87–703, title III, § 315, Sept. 27, 1962, 76 Stat. 621.

This Act, referred to in subsec. (f), is the Agricultural Act of 1949, act Oct. 31, 1949, ch. 792, 63 Stat. 1051. For classification of this Act to the Code, see Short Title note set out under section 1421 of this title and Tables volume.

AMENDMENTS

1976—Subsec. (g). Pub. L. 94–214 added subsec. (g).

1968—Subsec. (f). Pub. L. 90–475 substituted provisions authorizing price support for extra long staple

cotton for the 1968 crop and each subsequent crop based on the loan level established for Middling one-inch upland cotton and adjusted by the specified factors, provisions determining the computation of acreage allotments of extra long staple cotton, provisions authorizing the Secretary to establish the price-support payment factor, and provisions authorizing the manner and mode of payments authorized under this section, for provisions authorizing price support for extra long staple cotton for the 1957 crop and each subsequent crop based on the parity price for the 1956 crop and adjusted by certain specified factors, with a minimum price support level of not less than 60 percent of the parity price, and provisions making operative subsec. (d)(3) of this section upon the disapproval by producers of the national marketing quota established pursuant to section 1347 of this title.

1960—Subsec. (e). Pub. L. 86-389 repealed subsec. (e) which provided that: "Notwithstanding any of the provisions of this Act, section 2 of the Act of July 28, 1945 (59 Stat. 506) shall continue in effect." See section 1445 of this title.

1958—Subsec. (a). Pub. L. 85-835, § 302(a), substituted "and wheat" for "wheat, and rice" and added par. requiring rice price support levels to be not less than 75, 70, and 65 per centum of parity for 1959 and 1960, 1961, and 1962 and subsequent crop years, respectively.

Subsec. (d)(4). Act Oct. 31, 1949, § 104(b)(3), as added Pub. L. 85-835, § 201, repealed provision for price support level for corn to cooperators outside the commercial corn-producing area at 75 per centum of the level of price support to cooperators in the commercial corn-producing area.

Subsec. (f). Pub. L. 85-497 provided that the level of support for crops of extra long staple cotton shall not exceed the same per centum of the parity price as for the 1956 crop, required such level to be determined after consideration of the factors specified in section 1421(b) of this title and the price levels for similar qualities of cotton produced outside the United States, and established a minimum of not less than 60 per centum of the parity price as the level for extra long staple cotton.

1957—Subsec. (f). Pub. L. 85-28 set the price support for extra long staple cotton for 1957 and each subsequent crop at same per centum of parity price as for 1956 crop.

1954—Subsec. (d)(6). Act Aug. 28, 1954, § 201(a), provided for flexible price supports.

Subsec. (d)(7). Act Aug. 28, 1954, § 201(b), added par. (7).

Subsec. (f). Act Aug. 28, 1954, § 202, set the price support for long staple cotton at the minimum determined in accordance with the schedule in subsec. (b) of this section.

1952—Subsec. (d). Act July 17, 1952, § 2, added paragraph (6).

Subsec. (f). Act July 17, 1952, § 3(1), added subsec. (f).

EFFECTIVE DATE OF 1976 AMENDMENT

Section 102 of Pub. L. 94-214 provided in part that enactment of subsec. (g) of this section by such section 102 shall be effective for the 1976 and 1977 crops of rice.

EFFECTIVE DATE OF 1958 AMENDMENT

Section 104(b)(3) of act Oct. 31, 1949, as added Aug. 28, 1958, provided for repeal of subsec. (d)(4) of this section effective with the 1959 crop, to be operative as provided in section 1444a(b) of this title. See 1958 Referendum for Selection of Alternative Corn Program and Operative Status of Certain Provisions note under section 1444a.

Section 302(a) of Pub. L. 85-835 provided in part that the amendments of this section by Pub. L. 85-835 shall be effective beginning with the 1959 crop.

1963 WHEAT CROP

Section 306 of Pub. L. 87-703, title III, Sept. 27, 1962, 76 Stat. 615, provided that:

"Price support for the 1963 crop of wheat shall be made available as provided in section 101 of the Agricultural Act of 1949, as amended [this section], except that (1) price support shall be made available only to cooperators, and only in the commercial wheat-producing area, (2) if the operator of the farm elects to participate in the program formulated under section 307 [set out as a note under section 1334 of this title]—

"(A) price support shall be made available to the producers on such farm only if such producers divert from the production of wheat in accordance with the provisions of such program and acreage on the farm equal to the number of acres which such operator agrees to divert, and the agreement shall so provide, and

"(B) the level of price support for wheat of the 1963 crop to such participating producers shall be at a national average of two dollars per bushel and the amount by which such level of two dollars per bushel exceeds the national average level available to cooperators who are not participating producers shall be made available as hereinafter provided, and

(3) the national average level of price support for wheat of the 1963 crop to cooperators who are not participating producers shall be one dollar and eighty-two cents per bushel. The amount by which the level of two dollars per bushel exceeds the level of price support available to cooperators who are not participating producers shall be made available through payments in kind, on the number of bushels of wheat determined by multiplying the actual acreage of wheat planted on the farm for harvest in 1963 by the normal yield of wheat for the farm. Such payments in kind shall be made through the issuance of negotiable certificates which the Commodity Credit Corporation shall redeem for wheat (such wheat to be valued by the Secretary at not less than the current support price for wheat to cooperators who are not participants in the program formulated under section 307 [set out as a note under section 1334 of this title]) and, notwithstanding any other provision of law, the Commodity Credit Corporation shall, in accordance with regulations prescribed by the Secretary, assist the producer in the marketing of such cetificates. In the case of any certificate not presented for redemption within 30 days of the date of its issuance, reasonable costs of storage and other carrying charges, as determined by the Secretary, for the period beginning 30 days after its issuance and ending with the date of its presentation for redemption shall be deducted from the value of the certificate. The Secretary shall provide for the sharing of such certificates among the producers on the farm on the basis of their respective shares in the wheat crop produced on the farm, or the proceeds therefrom. For purposes of section 407 of the Agricultural Act of 1949 [section 1427 of this title], the 'current support price' for wheat during the marketing year for the 1963 crop shall be the support price for such crop to cooperators who are not participants in the program formulated under section 307 [set out as a note under section 1334 of this title]."

1962 WHEAT CROP

Section 123 of Pub. L. 87-128, title I, Aug. 8, 1961, 75 Stat. 297, provided that: "Price support for the 1962 crop of wheat shall be made available, as provided in section 101 of the Agricultural Act of 1949, as amended [this section], except that price support shall be made available only to cooperators, only in the commercial wheat-producing area, and if marketing quotas are in effect for the 1962 crop of wheat, wheat of such crop shall be eligible for price support only if the producers on the farm on which the wheat is produced participate in the special 1962 wheat program formulated under section 124 [set out as a note under sec-

tion 1334 of this title] to the extent prescribed by the Secretary."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1352, 1380f, 1385, 1427, 1428, 1442, 1443, 1444, 1444a, 1445 of this title.

§ 1441a. Cost of production study; establishment of current national weighted average cost of production; annual revision of study; criteria for study

The Secretary of Agriculture, in cooperation with the land grant colleges, commodity organizations, general farm organizations, and individual farmers, shall conduct a cost of production study of the wheat, feed grain, cotton, and dairy commodities under the various production practices and establish a current national weighted average cost of production. This study shall be updated annually and shall include all typical variable costs, a return on fixed costs equal to the existing interest rates charged by the Federal Land Bank, and return for management comparable to the normal management fees charged by other comparable industries. These studies shall be based upon the size unit that requires one man to farm on a full-time basis.

(Pub. L. 91-524, title VIII, § 808, as added Pub. L. 93-86, § 1(27)(B), Aug. 10, 1973, 87 Stat. 237.)

CODIFICATION

Section comprises a part of the Agricultural Act of 1970 as added by the Agriculture and Consumer Protection Act of 1973, and not a part of the Agricultural Act of 1949 which is classified in part to this chapter. For complete classification of the 1949 Act to the Code, see Short Title note set out under section 1421 of this title and Tables volume.

§ 1442. Price support and acreage requirements for corn and other feed grains

(a) Conditions of eligibility

Notwithstanding any other provision of law, whenever base acreages are in effect for corn, the Secretary shall require, as a condition of eligibility for price support on corn, that the producer (1) devote an acreage of cropland (tilled in normal rotation), at the option of the producer, to either the acreage reserve program for corn or the conservation reserve program, equal to 15 per centum of such producer's farm base acreage for corn, and (2) not exceed such farm base acreage for corn: *Provided*, That price support may be made available to any producer who does not meet the foregoing requirements at such level, not in excess of the level of price support to producers who meet such requirements, as the Secretary determines will facilitate the effective operation of the price support program. Corn acreage allotments shall not be effective for the 1956 crop.

(b) Referendum of producers of corn

Not later than December 15, 1956, the Secretary shall conduct a referendum of producers of corn in 1956 in the commercial corn-producing area to determine whether such producers favor a price-support program as provided in subsection (c) of this section for the 1957 and subsequent crops in lieu of acreage allotments as provided in the Agricultural Adjustment Act of 1938, as amended [7 U.S.C. 1281 et seq.], and price support as provided in section 1441 of this title.

(c) Restriction on acreage allotment of corn; price support level

Notwithstanding any other provision of law, if two-thirds or more of the producers voting in the referendum conducted pursuant to subsection (b) of this section favor a price-support program as provided in this subsection, no acreage allotment of corn shall be established for the commercial corn-producing area for any county, or for any farm, with respect to the 1957 and subsequent crops, and price support made available for such crops by Commodity Credit Corporation shall be at such level as the Secretary determines will assist producers in marketing corn in the normal channels of trade but not encourage the uneconomic production of corn.

(d) Price support level for 1956 and 1957 crops of grain sorghums, barley, rye, oats, and corn

Notwithstanding any other provision of law, (1) the level of price support for the 1956 crop of grain sorghums, barley, rye, and oats, respectively, shall be 76 per centum of the parity price for the commodity as of May 1, 1956, (2) the level of price support for corn produced outside the commercial corn-producing area, for any crop for which base acreages are in effect (except as provided in (3) below), shall be 82½ per centum of the level of price support for corn in the commercial corn-producing area to producers complying with acreage limitations, and (3) if price support is made available for the 1957 crop of corn in the commercial corn-producing area to producers not complying with acreage limitations, price support shall be made available for the 1957 crop of grain sorghums, barley, rye, oats, and corn produced outside the commercial corn-producing area, respectively, at a level, not less than 70 per centum of the parity price as of the beginning of the marketing year, determined by the Secretary to be fair and reasonable in relation to the level at which price support is made available for corn in the commercial corn-producing area to producers not complying with acreage limitations, taking into consideration the normal price relationships between such commodity and corn in the commercial area, the feed value of such commodity in relation to corn, the supply of such commodity in relation to the demand therefor, and the ability to dispose of stocks of such commodity acquired through price support programs.

(May 28, 1956, ch. 327, title III, § 308, 70 Stat. 206.)

REFERENCES IN TEXT

The Agricultural Adjustment Act of 1938, as amended, referred to in subsec. (b), is act Feb. 16, 1938, ch. 30, 52 Stat. 31, which is classified generally to chapter 35 (§ 1281 et seq.) of this title. For complete classification of this Act to the Code, see Tables volume.

CODIFICATION

Section enacted as a part of the Agricultural Act of 1956, and not as a part of the Agricultural Act of 1949 which is classified in part to this chapter. For complete classification of the 1949 Act to the Code, see

Short Title note set out under section 1421 of this title and Tables volume.

REFERENDUM OF PRODUCERS OF CORN

The referendum provided for in subsec. (b) of this section was held on Dec. 11, 1956, and the required two-thirds vote was not obtained in favor of the price support program provided for in subsec. (c) of this section. See 22 F.R. 480.

§ 1443. Cotton acreage allotment and price support levels for 1959 and 1960

Notwithstanding any other provisions of law—

(a) for each of the 1959 and 1960 crops of upland cotton the Secretary of Agriculture is authorized and directed to offer the operator of each farm for which an allotment is established under section 1344 of this title a choice of (A) the farm acreage allotment determined pursuant to section 1344 of this title, as amended, and price support determined pursuant to section 1441 of this title (the amount of cotton estimated to be produced on the additional acres allotted to producers selecting choice (B) for such year being taken into account in computing such support), except that for the 1959 crop the level of support shall be not less than 80 per centum of parity, or (B) the farm acreage allotment determined pursuant to section 1344 of this title increased by not to exceed 40 per centum (such increased acreage allotment to be the acreage allotment for the farm for all purposes) and price support at a level which is 15 per centum of parity below the level of support established for producers who elect choice (A). Any person operating more than one farm, in order to be eligible for choice (B), must elect choice (B) for all farms for which he is operator. Not later than January 31 the Secretary shall determine and announce on the basis of his estimate of the supply percentage and the parity price as of the following August 1, the price support level for producers who elect choice (A) and choice (B) respectively, and such price support levels shall be final. As soon as practicable after such announcement, the Secretary shall cause the operator (as shown on the records of the county committee) of each farm for which an allotment is established under section 1344 of this title to be notified of the alternative levels of price support and the alternative acreage allotments available for his farm. The operator of each farm shall, within the time prescribed by the Secretary, notify the county committee in writing whether he desires the increased acreage allotment and the level of price support prescribed in choice (B) to be effective for the farm. If the operator fails to so notify the county committee within the time prescribed, he shall be deemed to have chosen the acreage allotment and the price support level prescribed in choice (A). The choice elected by the operator shall apply to all the producers on the farm. Notwithstanding the foregoing provisions of this subsection, the Secretary may permit the operator of a farm for which choice (B) is in effect to change to choice (A) where conditions beyond the control of the farm operator, such as excessive rain, flood, or drought, prevented the planting of acreage to cotton or having cotton acreage available for harvest on the farm in accordance with the plans of such operator in selecting choice (B). The additional acreage required to be allotted to farms under this section shall be in addition to the county, State, and national acreage allotments and the production from such acreage shall be in addition to the national marketing quota. The additional acreage authorized by this section shall not be taken into account in establishing future State, county, and farm acreage allotments. Notwithstanding any other provision of law, no farm participating in any cotton acreage reserve program established for 1959 under the Soil Bank Act shall receive an increased acreage allotment under the provisions of this section for 1959. Notwithstanding the provisions of section 1344(m)(2) of this title any farm cotton acreage allotment increased as the result of the selection of choice (B) may not be released and reapportioned to any other farm. Price support shall be made available under this paragraph only to cooperators and only if producers have not disapproved marketing quotas for the crop.

(b) for each of the 1959 and 1960 crops of upland cotton, price support shall be made available to producers who elect choice (A) through a purchase program. Price support shall be made available to producers who elect choice (B) through loans, purchases, or other operations.

(c) the Commodity Credit Corporation is directed, during the period beginning August 1, 1959, and ending July 31, 1961, to offer any upland cotton owned by it for sale for unrestricted use at not less than 10 per centum above the current level of price support prescribed in choice (B).

(Oct. 31, 1949, ch. 792, title I, § 102, as added Aug. 28, 1958, Pub. L. 85-835, title I, § 101, 72 Stat. 988.)

REFERENCES IN TEXT

The Soil Bank Act, referred to in subsec. (a), was classified to subchapters I to III of chapter 45 of this title and was repealed by Pub. L. 89-321, title VI, § 601, Nov. 3, 1965, 79 Stat. 1206.

§ 1444. Cotton price support levels

(a) Basic support levels for 1961 and subsequent years

Notwithstanding the provisions of section 1441 of this title, price support to cooperators for each crop of upland cotton, beginning with the 1961 crop, for which producers have not disapproved marketing quotas shall be at such level not more than 90 per centum of the parity price therefor nor less than the minimum level prescribed below as the Secretary determines appropriate after consideration of the factors specified in section 1421(b) of this title. For the 1961 crop the minimum level shall be 70 per centum of the parity price therefor, and for each subsequent crop the minimum level shall be 65 per centum of the parity price therefor: *Provided*, That the price support for the 1965 crop shall be a national average support price which reflects 30 cents per pound for Middling one-inch cotton. Price support in the case of noncooperators and in case marketing quotas are disapproved shall be as provided in section 1441(d)(3) and (5) of this title.

(b) Additional support levels for 1964 and 1965

If producers have not disapproved marketing quotas, the Secretary shall provide additional price support on the 1964 and 1965 crops of upland cotton to cooperators on whose farms the acreage planted to upland cotton for harvest does not exceed the farm domestic allotment established under section 1350 of this title. Such additional support shall be at a level up to 15 per centum in excess of the basic level of support established under subsection (a) of this section and shall be provided on the normal yield of the acreage planted for harvest within the farm domestic allotment. For purposes of this subsection, an acreage on the farm which the Secretary finds was not planted to cotton in 1965 because of flood, drought, or other natural disaster shall be deemed by the Secretary to be an actual acreage of cotton planted on the farm for harvest, provided such acreage is not subsequently devoted to any price supported crop for 1965.

(c) Alternative operations for carrying out additional price support; payment-in-kind certificates: value, marketing assistance, redemption, and deductions after thirty day period

In order to keep upland cotton to the maximum extent practicable in the normal channels of trade, any additional price support under subsection (b) of this section may be carried out through the simultaneous purchase of cotton at the support price therefor under subsection (b) of this section and the sale of such cotton at the support price therefor under subsection (a) of this section or similar operations, including loans under which the cotton would be redeemable by payment of the amount for which the cotton would be redeemable if the loan thereon had been made at the support price for such cotton under subsection (a) of this section, or payments-in-kind through the issuance of certificates which the Commodity Credit Corporation shall redeem for cotton under regulations issued by the Secretary. If such additional support is provided through the issuance of payment-in-kind certificates, such certificates shall have a value per pound of cotton equal to the difference between the level of support established under subsection (a) of this section and the level of support established under subsection (b) of this section. The corporation may, under regulations prescribed by the Secretary, assist the producers and persons receiving payment-in-kind certificates under this section and section 1348 of this title, in the marketing of such certificates at such time and in such manner as the Secretary determines will best effectuate the purposes of the program authorized by this section and such section 1348. In the case of any certificate not presented for redemption within thirty days of the date of its issuance, reasonable costs of storage and other carrying charges as determined by the Secretary for the period beginning thirty days after its issuance and ending with the date of its presentation for redemption shall be deducted from the value of the certificate.

(d) Price support and diversion payments for 1966 through 1970 crops

(1) Notwithstanding any other provision of this Act, if producers have not disapproved marketing quotas, price support and diversion payments shall be made available for the 1966 through 1970 crops of upland cotton as provided in this subsection.

(2) Price support for each such crop of upland cotton shall be made available to cooperators through loans at such level, not exceeding a level which will reflect for Middling one-inch upland cotton at average location in the United States 90 per centum of the estimated average world market price for Middling one-inch upland cotton for the marketing year for such crop, as the Secretary determines will provide orderly marketing of cotton during the harvest season and will retain an adequate share of the world market for cotton produced in the United States taking into consideration the factors specified in section 1421(b) of this title: *Provided,* That the national average loan rate for the 1966 crop shall reflect 21 cents per pound for Middling one-inch upland cotton.

(3) The Secretary also shall provide additional price support for each such crop through payments in cash or in kind to cooperators at a rate not less than 9 cents per pound: *Provided,* That the rate shall be such that the amount obtained by—

(i) multiplying the rate by the farm domestic acreage allotment percentage, and

(ii) dividing the product thus obtained by the cooperator percentage established under section 1428(b) of this title, and

(iii) adding the result thus obtained to the national average loan rate

shall not be less than 65 per centum or more than 90 per centum of the parity price for cotton as of the month in which the payment rate provided for by this paragraph is announced. Such payments shall be made on the quantity of cotton determined by multiplying the projected farm yield by the acreage planted to cotton within the farm domestic acreage allotment: *Provided,* That any such farm planting not less than 90 per centum of such domestic acreage allotment shall be deemed to have planted the entire amount of such allotment. An acreage on a farm in any such year which the Secretary finds was not planted to cotton because of drought, flood, or other natural disaster shall be deemed to be planted to cotton for purposes of payments under this subsection if such acreage is not subsequently devoted to any other crop for which there are marketing quotas or voluntary adjustment programs in effect.

(4) The Secretary shall make diversion payments in cash or in kind in addition to the price support payments authorized in paragraph (3) to cooperators who reduce their cotton acreage by diverting a portion of their cotton acreage allotment from the production of cotton to approved conservation practices to the extent prescribed by the Secretary: *Provided,* That no reduction below the domestic acreage allotments established under section 1350 of this title shall be prescribed: *Provided further,* That payment under this paragraph shall be made available for diverting to conserving uses that part of the acreage allotment which must be diverted from cotton in order that the producer may qualify as a cooperator. The rate of payment for acreage required to be diverted in order to qualify

as a cooperator shall not be less than 25 per centum of the parity price for upland cotton as of the month in which such rate is announced. The rate of payment for additional acreage diverted shall be such rate as the Secretary determines to be fair and reasonable, but shall not exceed 40 per centum of such parity price. Payment at each applicable rate shall be made on the quantity of cotton determined by multiplying the acreage diverted from the production of cotton at such rate by the projected farm yield. In addition to the foregoing payment, if any, payment at the rate applicable for acreage required to be diverted to qualify as a cooperator shall be made to producers on small farms as defined in section 1428(b) of this title who do not exceed their farm acreage allotments on a quantity of cotton determined by multiplying an acreage equal to 35 per centum of such farm acreage allotment by the projected farm yield.

(5) The Secretary may make not to exceed 50 per centum of the payments under this subsection to producers in advance of determination of performance and the balance of such payments shall be made at such time as the Secretary may prescribe.

(6) Where the farm operator elects to participate in the diversion program authorized in this subsection and no acreage is planted to cotton on the farm, diversion payments shall be made at the rate established under paragraph (4) for acreage required to be diverted to qualify as a cooperator on the quantity of cotton determined by multiplying that part of the farm acreage allotment required to be diverted to qualify as a cooperator by the projected farm yield, and the remainder of such allotment may be released under the provisions of section 1344(m)(2) of this title. The acreage on which payment is made under this paragraph shall be regarded as planted to cotton for purposes of establishing future State, county, and farm acreage allotments, and farm bases.

(7) Payments in kind under this subsection shall be made through the issuance of certificates which the Commodity Credit Corporation shall redeem for cotton under regulations issued by the Secretary at a value per pound equal to not less than the current loan rate therefor. The Corporation may, under regulations prescribed by the Secretary, assist the producers in the marketing of such certificates at such times and in such manner as the Secretary determines will best effectuate the purposes of the program authorized by this subsection.

(8) Payments under this subsection shall be conditioned on the farm having an acreage of approved conservation uses equal to the sum of (i) the reduction in cotton acreage required to qualify for such payments (hereinafter called "diverted acreage"), and (ii) the average acreage of cropland on the farm devoted to designated soil-conserving crops or practices, including summer fallow and idle land, during a base period prescribed by the Secretary: *Provided*, That the Secretary may permit all or any part of such diverted acreage to be devoted to the production of guar, sesame, safflower, sunflower, castor beans, mustard seed, crambe, plantago ovato, and flaxseed, if he determines that such production is necessary to provide an adequate supply of such commodities, is not likely to increase the cost of the price support program, and will not adversely affect farm income, subject to the condition that payment under paragraph (4) or (6) with respect to diverted acreage devoted to any such crop shall be at a rate determined by the Secretary to be fair and reasonable, taking into consideration the use of such acreage for the production of such crops, but in no event shall the payment exceed one-half the rate which otherwise would be applicable if such acreage were devoted to conservation uses.

(9) The acreage regarded as planted to cotton on any farm which qualifies for payment under this subsection except under paragraph (6) shall, for purposes of establishing future State, county, and farm acreage allotments and farm bases, be the farm acreage allotment established under section 1344 of this title, excluding adjustments under subsection (m)(2) thereof.

(10) The Secretary shall provide adequate safeguards to protect the interests of tenants and sharecroppers, including provision for sharing diversion payments on a fair and equitable basis under this subsection. The Secretary shall provide for the sharing of price support payments among producers on the farm on the basis of their respective shares in the cotton crop produced on the farm, or the proceeds therefrom, except that in any case in which the Secretary determines that such basis would not be fair and equitable, the Secretary shall provide for such sharing on such other basis as he may determine to be fair and equitable.

(11) In any case in which the failure of a producer to comply fully with the terms and conditions of the programs formulated under this Act preclude the making of payments under this section, the Secretary may, nevertheless, make such payments in such amounts as he determines to be equitable in relation to the seriousness of the default.

(12) Notwithstanding any other provision of this Act, if, as a result of limitations hereafter enacted with respect to price support under this subsection, the Secretary is unable to make available to all cooperators the full amount of price support to which they would otherwise be entitled under paragraphs (2) and (3) of this subsection for any crop of upland cotton, (A) price support to cooperators shall be made available for such crop (if marketing quotas have not been disapproved) through loans or purchases at such level not less than 65 per centum nor more than 90 per centum of the parity price therefor as the Secretary determines appropriate; (B) in order to keep upland cotton to the maximum extent practicable in the normal channels of trade, such price support may be carried out through the simultaneous purchase of cotton at the support price therefor and resale at a lower price or through loans under which the cotton would be redeemable by payment of a price therefor lower than the amount of the loan thereon; and (C) such resale or redemption price shall be such as the Secretary determines will provide orderly marketing of cotton during the harvest season and will retain an adequate share of the world market for cotton produced in the United States.

(13) The provisions of section 590h(g) of title 16 (relating to assignment of payments), shall also apply to payments under this subsection.

(14) The Commodity Credit Corporation is authorized to utilize its capital funds and other assets for the purpose of making the payments authorized in this subsection and to pay administrative expenses necessary in carrying out this subsection.

(e) Price support, diversion, and cropland set-aside program for crops beginning with 1971 crop

(1) The Secretary shall upon presentation of warehouse receipts reflecting accrued storage charges of not more than 60 days make available for the 1971 through 1977 crops of upland cotton to cooperators nonrecourse loans for a term of ten months from the first day of the month in which the loan is made at such level as will reflect the Middling one-inch upland cotton (micronaire 3.5 through 4.9) at average location in the United States 90 per centum of the average price of American cotton in world markets for such cotton for the three-year period ending July 31 in the year in which the loan level is announced, except that if the loan rate so calculated is higher than the then current level of average world prices for American cotton of such quality, the Secretary is authorized to adjust the current calculated loan rate for cotton to 90 per centum of the then current average world price. The average world price for such cotton for such preceding three-year period shall be determined by the Secretary annually pursuant to a published regulation which shall specify the procedures and the factors to be used by the Secretary in making the world price determination. The loan level for any crop of upland cotton shall be determined and announced not later than November 1 of the calendar year preceding the marketing year for which such loan is to be effective. Notwithstanding the foregoing, if the carryover of upland cotton as of the beginning of the marketing year for any of the 1972 or 1973 crops exceeds 7.2 million bales, producers on any farm harvesting cotton of such crop from an acreage in excess of the base acreage allotment for such farm shall be entitled to loans and purchases only on an amount of the cotton of such crop produced on such farm determined by multiplying the yield used in computing payments for such farm by the base acreage allotment for such farm.

(2) Payments shall be made for each crop of cotton to the producers on each farm at a rate equal to the amount by which the higher of—

(1) the average market price received by farmers for upland cotton during the calendar year which includes the first five months of the marketing year for such crop, as determined by the Secretary, or

(2) the loan level determined under paragraph (1) for such crop

is less than the established price of 38 cents per pound in the case of the 1974 and 1975 crops, 38 cents per pound adjusted to reflect any change during the calendar year 1975 in the index of prices paid by farmers for production items, interest, taxes, and wage rates in the case of the 1976 crop, and the established price for the 1976 crop adjusted to reflect any change during the calendar year 1976 in such index in the case of the 1977 crop: *Provided,* That any increase that would otherwise be made in the established price to reflect a change in the index of prices paid by farmers shall be adjusted to reflect any change in (i) the national average yield per acre of cotton for the three calendar years preceding the year for which the determination is made, over (ii) the national average yield per acre of cotton for the three calendar years preceding the year previous to the one for which the determination is made. If the Secretary determines that the producers on a farm are prevented from planting any portion of the allotment to cotton because of drought, flood, or other natural disaster, or condition beyond the control of the producer, the rate of payment for such portion shall be the larger of (A) the foregoing rate, or (B) one-third of the established price. If the Secretary determines that, because of such a disaster or condition, the total quantity of cotton which the producers are able to harvest on any farm is less than 66⅔ percent of the farm base acreage allotment times the average yield established for the farm, the rate of payment for the deficiency in production below 100 percent shall be the larger of (A) the foregoing rate, or (B) one-third of the established price. The payment rate with respect to any producer who (i) is on a small farm (that is, a farm on which the base acreage allotment is ten acres or less, or on which the yield used in making payments times the farm base acreage allotment is five thousand pounds or less, and for which the base acreage allotment has not been reduced under section 1350(f) of this title, (ii) resides on such farm, and (iii) derives his principal income from cotton produced on such farm, shall be increased by 30 per centum; but, notwithstanding paragraph (3), such increase shall be made only with respect to his share of cotton actually harvested on such farm within the quantity specified in paragraph (3).

(3) Such payments shall be made available for a farm on the quantity of upland cotton determined by multiplying the acreage planted within the farm base acreage allotment for the farm for the crop by the average yield established for the farm: *Provided,* That payments shall be made on any farm planting not less than 90 per centum of the farm base acreage allotment on the basis of the entire amount of such allotment. For purposes of this paragraph, an acreage on the farm which the Secretary determines was not planted to cotton because of drought, flood, other natural disaster, or a condition beyond the control of the producer shall be considered to be an acreage planted to cotton. The average yield for the farm for any year shall be determined on the basis of the actual yields per harvested acre for the three preceding years, except that the 1970 farm projected yield shall be substituted in lieu of the actual yields for the years 1968 and 1969: *Provided,* That the actual yields shall be adjusted by the Secretary for abnormal yields in any year caused by drought, flood, or other natural disaster: *Provided further,* That the average yield established for the farm for any year shall not be less than the yield used in making payments for the preceding year if the total

cotton production on the farm in such preceding year is not less than the yield used in making payments for the farm for such preceding year times the farm base acreage allotment for such preceding year (for the 1970 crop, the farm domestic allotment).

(4)(A) The Secretary shall provide for a set aside of cropland if he determines that the total supply of agricultural commodities will, in the absence of such a set-aside, likely be excessive taking into account the need for an adequate carryover to maintain reasonable and stable supplies and prices and to meet a national emergency. If a set-aside of cropland is in effect under this paragraph (4), then as a condition of eligibility for loans and payments on upland cotton the producers on a farm must set aside and devote to approved conservation uses an acreage of cropland equal to (i) such percentage of the farm base acreage allotment for the farm as may be specified by the Secretary (not to exceed 28 per centum of the farm base acreage allotment), plus, if required by the Secretary, (ii) the acreage of cropland on the farm devoted in preceding years to soil conserving uses, as determined by the Secretary. The Secretary is authorized for the 1974 through 1977 crops to limit the acreage planted to upland cotton on the farm in excess of the farm base acreage allotment to a percentage of the farm base acreage allotment. The Secretary shall permit producers to plant and graze on set-aside acreage sweet sorghum, and the Secretary may permit, subject to such terms and conditions as he may prescribe, all or any of the set-aside acreage to be devoted to hay and grazing or the production of guar, sesame, safflower, castor beans, mustard seed, crambe, plantago ovato, flaxseed, triticale, oats, rye, or other commodity, if he determines that such production is needed to provide an adequate supply, is not likely to increase the cost of the price-support program, and will not adversely affect farm income.

(B) To assist in adjusting the acreage of commodities to desirable goals, the Secretary may make land diversion payments, in addition to the payments authorized in subsection (e)(2) of this section, to producers on a farm who, to the extent prescribed by the Secretary, devote to approved conservation uses an acreage of cropland on the farm in addition to that required to be so devoted under subsection (e)(4)(A) of this section. The land diversion payments for a farm shall be at such rate or rates as the Secretary determines to be fair and reasonable taking into consideration to the diversion undertaken by the producers and the productivity of the acreage diverted. The Secretary shall limit the total acreage to be diverted under agreements in any county or local community so as not to adversely affect the economy of the county or local community.

(5) The upland cotton program formulated under this section shall require the producer to take such measures as the Secretary may deem appropriate to protect the set-aside acreage and the additional diverted acreage from erosion, insects, weeds, and rodents. Such acreage may be devoted to wildlife food plots or wildlife habitat in conformity with standards established by the Secretary in consultation with wildlife agencies. The Secretary may in the case of programs for the 1974 through 1977 crops, pay an appropriate share of the cost of practices designed to carry out the purposes of the foregoing sentences. The Secretary may provide for an additional payment on such acreage in an amount determined by the Secretary to be appropriate in relation to the benefit to the general public if the producer agrees to permit, without other compensation, access to all or such portion of the farm as the Secretary may prescribe by the general public, for hunting, trapping, fishing, and hiking, subject to applicable State and Federal regulations.

(6) If the operator of the farm desires to participate in the program formulated under this section, he shall file his agreement to do so no later than such date as the Secretary may prescribe. Loans and purchases on upland cotton and payments under this section shall be made available to the producers on such farm only if producers set aside and devote to approved soil conserving uses an acreage on the farm equal to the number of acres which the operator agrees to set aside and devote to approved soil conserving uses, and the agreement shall so provide. The Secretary may, by mutual agreement with the producer, terminate or modify any such agreement entered into pursuant to this subsection (e)(6) if he determines such action necessary because of an emergency created by drought or other disaster or in order to alleviate a shortage in the supply of agricultural commodities.

(7) The Secretary shall provide adequate safeguards to protect the interests of tenants and sharecroppers, including provision for sharing on a fair and equitable basis, in payments under this section.

(8) In any case in which the failure of a producer to comply fully with the terms and conditions of the program formulated under this section precludes the making of loans, purchases, and payments, the Secretary may, nevertheless, make such loans, purchases, and payments in such amounts as he determines to be equitable in relation to the seriousness of the default.

(9) The Secretary is authorized to issue such regulations as he determines necessary to carry out the provisions of this subchapter.

(10) The Secretary shall carry out the program authorized by this section through the Commodity Credit Corporation.

(11) The provisions of section 590h(g) of title 16 (relating to assignment of payments), shall apply to payments under this subsection.

(Oct. 31, 1949, ch. 792, title I, § 103, as added Aug. 28, 1958, Pub. L. 85-835, title I, § 102, 72 Stat. 989, and amended Apr. 11, 1964, Pub. L. 88-297, title I, § 103(b), 78 Stat. 174; Aug. 6, 1965, Pub L. 89-112, § 2, 79 Stat. 447; Nov. 3, 1965, Pub. L. 89-321, title IV, § 402(a), 79 Stat. 1194; June 17, 1966, Pub. L. 89-451, § 1, 80 Stat. 202; Oct. 11, 1968, Pub. L. 90-559, § 1(2), 82 Stat. 996; Nov. 30, 1970, Pub. L. 91-524, title VI, § 602, 84 Stat. 1374; Aug. 10, 1973, Pub. L. 93-86, § 1(20), 87 Stat. 233; Oct. 18, 1973, Pub. L. 93-125, § 1(b), 87 Stat. 450.)

REFERENCES IN TEXT

"This Act", referred to in subsec. (d)(1), (11), (12) is the Agricultural Act of 1949, as amended, act Oct. 31,

1949, ch. 792, 63 Stat. 1051. For classification of this Act to the Code, see Short Title note under section 1421 of this title and Tables volume.

AMENDMENTS

1973—Subsec. (e)(1). Pub. L. 93-86, § 1(20)(A), (B), substituted "1971 through 1977 crops of upland cotton" for "1971, 1972, and 1973 crops of upland cotton", "three-year period" for "two-year period" in two places, "except that if the loan rate so calculated is higher than the then current level of average world prices for American cotton of such quality, the Secretary is authorized to adjust the current calculated loan rate for cotton to 90 per centum of the then current average world price" for "except that to prevent the establishment of such a loan level as would adversely affect the competitive position of United States upland cotton, following one or more years of excessively high prices the Secretary shall make such adjustments as are necessary to keep United States upland cotton competitive and to retain an adequate share of the world market for such cotton", "average price of American cotton in world markets" for "acreage world price", and "any of the 1972 through 1977 crops" for "the 1972 or 1973 crop".

Subsec. (e)(2). Pub. L. 93-86, § 1(20)(C), substituted provisions setting out the formula for determining payments for each crop of cotton to the producers on each farm using, as elements of such formula, the average market price received by farmers for upland cotton during the calendar year which includes the first five months of the marketing year for such crop, as determined by the Secretary, the loan level determined under paragraph (1) for such crop, an established price of 38 cents per pound in the case of the 1974 and 1975 crops, adjusted prices in the case of the 1976 and 1977 crops, adjustment of increases to reflect changes in the national average yield per acre of cotton for the three calendar years preceding the year for which the determination is made over the national average yield per acre of cotton for the three calendar years preceding the year previous to the one for which the determination is made, and covering prevention of planting due to natural disasters and conditions for provisions authorizing payments by the Secretary to cooperators on the 1971, 1972, and 1973 crops of upland cotton, and struck out provisions directing preliminary payments to producers as soon as practicable after July 1 of the year in which the crop is harvested at a rate equal to 15 cents per pound.

Pub. L. 93-125 substituted "prevented from planting any portion" for "prevented from planting, any portion".

Subsec. (e)(4)(A). Pub. L. 93-86, § 1(20)(D), (E), (F), inserted ", if required by the Secretary," preceding "(ii) the acreage of cropland on the farm devoted in preceding years to soil conserving uses, as determined by the Secretary", substituted "The Secretary is authorized for the 1974 through 1977 crops to limit the acreage planted to upland cotton on the farm in excess of the farm base acreage allotment to a percentage of the farm base acreage allotment" for "If the Secretary determines prior to the planting season for such crop that the carryover of upland cotton as of the beginning of the marketing year for the 1972 or 1973 crop will exceed 7.2 million bales, the Secretary is authorized for such crop to limit the acreage planted to upland cotton on the farm in excess of the farm base acreage allotment to such percentage of the farm base acreage allotment as he determines necessary to reduce the total supply to a reasonable level", deleted provision prohibiting grazing during any of the five principal months of the normal growing season as determined by the county committee established pursuant to section 590h(b) of Title 16, and added provisions authorizing the raising of hay on set-aside acreage and the production of triticale, oats, and rye.

Subsec. (e)(5). Pub. L. 93-86, § 1(20)(G), authorized the Secretary in the case of programs for the 1974 through 1977 crops to pay an appropriate share of the cost of practices designed to protect set-aside acreage from erosion, insects, weeds, and rodents and to provide wildlife food plots or wildlife habitat.

1970—Subsec. (e). Pub. L. 91-524 added subsec. (e).

1968—Subsec. (d)(1). Pub. L. 90-559 provided for a one year extension, substituting "1966 through 1970" for "1966, 1967, 1968, and 1969".

1966—Subsec. (d)(3). Pub. L. 89-451 substituted in the last sentence "crop for which there are marketing quotas or voluntary adjustment programs in effect" for "income producing crop in such year".

1965—Subsec. (b). Pub. L. 89-112 provided that the Secretary shall deem an acreage on a farm which he finds was not planted to cotton in 1965 because of flood, drought, or other natural disaster to be an actual acreage of cotton planted on the farm for harvest when that acreage was not subsequently devoted to any price support crop in 1965.

1964—Subsec. (a). Pub. L. 88-297, § 103(b)(1), (2), designated existing provisions as subsec. (a) and provided that the price support for the 1964 cotton crop shall be a national average support price which reflects 30 cents per pound for Middling one-inch cotton.

Subsecs. (b), (c). Pub. L. 88-297, § 103(b)(3), added subsecs. (b) and (c).

Subsec. (d). Pub. L. 89-321 added subsec. (d).

EFFECTIVE DATE OF 1973 AMENDMENT

Section 1(20)(C) of Pub. L. 93-86 provided in part that the amendment by section 1(20)(C) of Pub. L. 93-86 is effective beginning with the 1974 crop.

Section 1(20)(D) of Pub. L. 93-86 provided in part that the amendment by section 1(20)(D) of Pub. L. 93-86, authorizing the Secretary for the 1974 through 1977 crops to limit the acreage planted in upland cotton on the farm in excess of the farm base acreage allotment to a percentage of the farm base acreage allotment, is effective beginning with the 1974 crop.

EFFECTIVE DATE OF 1970 AMENDMENT

Section 602 of Pub. L. 91-524 provided in part that the amendment by Pub. L. 91-524 is effective beginning with the 1971 crop of upland cotton.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1344, 1348, 1349, 1350, 1377, 1427, 1428, 2119 of this title.

§ 1444a. Corn and feed grains and cotton programs

(a) Referendum; selection of price support program under subsection (b) of this section for 1959 and subsequent crops or acreage allotments under Agricultural Adjustment Act of 1938 and price support under section 1441 of this title

Not later than December 15, 1958, the Secretary shall conduct a referendum of producers of corn in 1958 in the commercial corn-producing area for 1958 to determine whether such producers favor a price support program as provided in subsection (b) of this section for the 1959 and subsequent crops in lieu of acreage allotments as provided in the Agricultural Adjustment Act of 1938, as amended [7 U.S.C. 1281 et seq.], and price support as provided in section 1441 of this title.

(b) Operative status of certain provisions

Notwithstanding any other provision of law, if less than a majority of the producers voting in the referendum conducted pursuant to subsection (a) of this section favor a price support program as provided in this subsection (b), the following provisions of law shall become inoperative:

(1) [Section enacted section 1329a of this title.]

(2) [Section enacted section 1444b of this title.]

(3) [Section repealed section 1441(d)(d) of this title.]

(c) Cotton research program; reduction of upland cotton production costs; authorization of appropriations; reports to Congressional Committees

The Secretary of Agriculture is hereby authorized and directed to conduct a special cotton research program designed to reduce the cost of producing upland cotton in the United States at the earliest practicable date. There are hereby authorized to be appropriated such sums, not to exceed $10,000,000 annually, as may be necessary for the Secretary to carry out this special research program. The Secretary shall report annually to the Committee on Agriculture of the House of Representatives and to the Committee on Agriculture, Nutrition, and Forestry of the Senate with respect to the results of such research.

(d) Cotton insect eradication; Commodity Credit Corporation execution of program; utilization of technical and related services of Federal, State, and private agencies and cotton organizations; participation and cooperation of beneficiaries of any program

In order to reduce cotton production costs, to prevent the movement of certain cotton plant insects to areas not now infested, and to enhance the quality of the environment, the Secretary is authorized and directed to carry out programs to destroy and eliminate cotton boll weevils in infested areas of the United States as provided herein and to carry out similar programs with respect to pink bollworms or any other major cotton insect if the Secretary determines that methods and systems have been developed to the point that success in eradication of such insects is assured. The Secretary shall carry out the eradication programs authorized by this subsection through the Commodity Credit Corporation. In carrying out insect eradication projects, the Secretary shall utilize the technical and related services of appropriate Federal, State, private agencies, and cotton organizations. Producers and landowners in an eradication zone, established by the Secretary, who are receiving benefits from any program administered by the United States Department of Agriculture, shall, as a condition of receiving or continuing any such benefits, participate in and cooperate with the eradication project, as specified in regulations of the Secretary.

Enforcement against nonbeneficiaries of any program: regulations, civil penalties for separate offenses, notice and hearing, determination of amount; indemnification funds for loss of production and income from special measures; protection of allotments, acreage history, and average farm yield; payment of costs in eradication zone; reasonable and equitable share; deduction of pro rata share from cotton payment; employment of people in trade; termination of funding of program; accounting for and disposition of funds in custody of agencies

The Secretary may issue such regulations as he deems necessary to enforce the provisions of this subsection with respect to achieving the compliance of producers and landowners who are not receiving benefits from any program administered by the United States Department of Agriculture. Any person who knowingly violates any such regulation promulgated by the Secretary under this subsection may be assessed a civil penalty of not to exceed $5,000 for each offense. No civil penalty shall be assessed unless the person shall have been given notice and opportunity for a hearing on such charge in the county, parish, or incorporated city of the residence of the person charged. In determining the amount of the penalty the Secretary shall consider the appropriateness of such penalty to the size of the business of the person charged, the effect on the person's ability to continue in business, and the gravity of the violation. Where special measures deemed essential to achievement of the eradication objective are taken by the project and result in a loss of production and income to the producer, the Secretary shall provide reasonable and equitable indemnification from funds available for the project and also provide for appropriate protection of the allotment, acreage history, and average yield for the farm. The cost of the program in each eradication zone shall be determined, and cotton producers in the zone shall be required to pay up to one-half thereof, with the exact share in each zone area to be specified by the Secretary upon his finding that such share is reasonable and equitable based on population levels of the target insect and the degree of control measures normally required. Each producer's pro rata share shall be deducted from his cotton payment under this Act or otherwise collected, as provided in regulations of the Secretary. Insofar as practicable, cotton producers and other persons engaged in cotton production in the eradication zone shall be employed to participate in the work of the project in such zone. Funding of the program shall be terminated at such time as the Secretary determines and reports to the Congress that complete eradication of the insects for which programs are undertaken pursuant to this subsection has been accomplished. Funds in custody of agencies carrying out the program shall, upon termination of such program, be accounted for to the Secretary for appropriate disposition.

Cooperation with Government of Mexico: measures and character of cooperation, functions of Secretaries of Agriculture and State; prohibition of Commodity Credit Corporation expenditures without funds from appropriations; authorization of appropriations

The Secretary is authorized to cooperate with the Government of Mexico in carrying out operations or measures in Mexico which he deems necessary and feasible to prevent the movement into the United States from Mexico of any insects eradicated under the provisions of this subsection. The measure and character of cooperation carried out under this subsection on the part of the United States and on the part of the Government of Mexico, including the expenditure or use of funds made available by the Secretary under this subsection, shall be such as may be prescribed by the Secretary. Arrangements for the cooperations authorized by this subsection shall be made through and in consultation with the Secretary of State. The Commodity Credit Corporation shall not make any expenditures for carrying out the purposes of this subsection unless the Corporation has

received funds to cover such expenditures from appropriations made to carry out the purposes of this subsection. There are hereby authorized to be appropriated to the Commodity Credit Corporation such sums as the Congress may from time to time determine to be necessary to carry out the purposes of this subsection.

(Oct. 31, 1949, ch. 792, title I, § 104, as added Aug. 28, 1958, Pub. L. 85-835, title II, § 201, 72 Stat. 993, and amended Apr. 11, 1964, Pub. L. 88-297, title I, § 103(a), 78 Stat. 174; Nov. 30, 1970, Pub. L. 91-524, title VI, § 611, as added Aug. 10, 1973, Pub. L. 93-86, § 1(24), 87 Stat. 235; S. Res. 4, Feb. 4, 1977.)

REFERENCES IN TEXT

The Agricultural Adjustment Act of 1938, as amended, referred to in subsec. (a), is act Feb. 16, 1938, ch. 30, 52 Stat. 31, which is classified generally to chapter 35 (§ 1281 et seq.) of this title. For complete classification of this Act to the Code, see Tables volume.

This Act, referred to in subsec. (d), is the Agricultural Act of 1949, act Oct. 31, 1949, ch. 792, 63 Stat. 1051. For complete classification of this Act to the Code, see Short Title note set out under section 1421 of this title and Tables volume.

CODIFICATION

Subsec. (b)(1) of this section, as added by section 201 of Pub. L. 85-835, enacted section 330 of Agricultural Adjustment Act of 1938, which is classified as section 1329a of this title.

Subsec. (b)(2) of this section, as added by section 201 of Pub. L. 85-835, enacted section 105 of Agricultural Act of 1949, which is classified as section 1444b of this title.

Subsec. (b)(3) of this section, as added by section 201 of Pub. L. 85-835, repealed section 101(d)(4) of Agricultural Act of 1949, and was executed to text in the repeal of section 1441(d)(4) of this title.

AMENDMENTS

1973—Subsec. (d). Pub. L. 91-524, § 611, as added Pub. L. 93-86, § 1(24), added subsec. (d).

1964—Subsec. (c). Pub. L. 88-297 added subsec. (c).

CHANGE OF NAME

The Committee on Agriculture and Forestry of the Senate, referred to in subsec. (i), was abolished and replaced by the Committee on Agriculture, Nutrition, and Forestry of the Senate, effective Feb. 11, 1977. See Rule XXV of the Standing Rules of the Senate, as amended by Senate Resolution 4 (popularly cited as the "Committee System Reorganization Amendments of 1977"), approved Feb. 4, 1977.

1958 REFERENDUM FOR SELECTION OF ALTERNATIVE CORN PROGRAM; OPERATIVE STATUS OF CERTAIN PROVISIONS

Corn producers voted for adoption of price support program as provided in subsec. (b) of this section (254,262) rather than alternative corn acreage allotment and price support program (102,907), the ballot making operative sections 1329a and 1444b and repeal of section 1441(d)(4) of this title.

§ 1444b. Feed grains; loans and purchases; payments

Notwithstanding any other provision of law—

(a)(1) Corn loans and purchases support levels; encouragement of exports; nonproduction of excessive stocks

The Secretary shall make available to producers loans and purchases on each crop of corn at such level, not less than $1.10 per bushel nor in excess of 90 per centum of the parity price therefor, as the Secretary determines will encourage the exportation of feed grains and not result in excessive total stocks of feed grains in the United States.

(2) Other feed grains loans and purchases support levels; specific considerations

The Secretary shall make available to producers loans and purchases on each crop of barley, oats, and rye, respectively, at such level as the Secretary determines is fair and reasonable in relation to the level that loans and purchases are made available for corn, taking into consideration the feeding value of such commodity in relation to corn and other factors specified in section 1421(b) of this title, and on each crop of grain sorghums at such level as the Secretary determines is fair and reasonable in relation to the level that loans and purchases are made available for corn, taking into consideration the feeding value and average transportation costs to market of grain sorghums in relation to corn.

(b)(1) Crop payments; computation; rate

In addition, the Secretary shall make available to producers payments for each crop of corn, grain sorghums, and, if designated by the Secretary, barley, computed by multiplying (1) the payment rate, times (2) the allotment for the farm for such crop, times (3) the yield established for the farm for the preceding crop with such adjustments as the Secretary determines necessary to provide a fair and equitable yield. The payment rate for corn shall be the amount by which the higher of—

(1) the national weighted average market price received by farmers during the first five months of the marketing year for such crop, as determined by the Secretary, or

(2) the loan level determined under subdivision (a) of this section for such crop

is less than the established price of $1.38 per bushel in the case of the 1974 and 1975 crops, $1.38 per bushel adjusted to reflect any change during the calendar year 1975 in the index of prices paid by farmers for production items, interest, taxes, and wage rates in the case of the 1976 crop, and the established price for the 1976 crop adjusted to reflect any change during the calendar year 1976 in such index in the case of the 1977 crop: *Provided*, That any increase that would otherwise be made in the established price to reflect a change in the index of prices paid by farmers shall be adjusted to reflect any change in (i) the national average yield per acre of feed grains for the three calendar years preceding the year for which the determination is made, over (ii) the national average yield per acre of feed grains for the three calendar years preceding the year previous to the one for which the determination is made. The payment rate for grain sorghums and, if designated by the Secretary, barley, shall be such rate as the Secretary determines fair and reasonable in relation to the rate at which payments are made available for corn. If the Secretary determines that the producers on a farm are prevented from planting any portion of the farm acreage allotment to feed grains or other nonconserving crop, because of drought, flood, or other natural disaster or condition beyond the control of the producer, the rate of payment on such portion shall be the larger of (A) the foregoing rate, or (B) one-third of the established price. If the Secretary determines

that, because of such a disaster or condition, the total quantity of feed grains (or of wheat, or cotton planted in lieu of the allotted crop) which the producers are able to harvest on any farm is less than 66⅔ percent of the farm acreage allotment times the yield of feed grains (or of wheat, or cotton planted in lieu of the allotted crop) established for the farm, the rate of payment for the deficiency in production below 100 percent shall be the larger of (A) the foregoing rate, or (B) one-third of the established price.

(2) National acreage allotment for feed grains: determination and proclamation; adjustment of feed grain allotment; State, county, and farm feed grain allotments: establishment and adjustment; reservation for apportionment to new feed grain farms; apportionment factors

The Secretary shall, prior to January 1 of each calendar year, determine and proclaim for the crop produced in such calendar year a national acreage allotment for feed grains, which shall be the number of acres he determines on the basis of the estimated national average yield of the feed grains included in the program for the crop for which the determination is being made will produce the quantity (less imports) of such feed grains that he estimates will be utilized domestically and for export during the marketing year for such crop. If the Secretary determines that carryover stocks of any of the feed grains are excessive or an increase in stocks is needed to assure a desirable carryover, he may adjust the feed grain allotment by the amount he determines will accomplish the desired decrease or increase in carryover stocks. State, county, and farm feed grain allotments shall be established on the basis of the feed grain allotments established for the preceding crop (for 1974 on the basis of the feed grain bases established for 1973), adjusted to the extent deemed necessary to establish a fair and equitable apportionment base for each State, county, and farm. Not to exceed 1 per centum of the State feed grain allotment may be reserved for apportionment to new feed grain farms on the basis of the following factors: suitability of the land for production of feed grains, the extent to which the farm operator is dependent on income from farming for his livelihood, the production of feed grains on other farms owned, operated, or controlled by the farm operator, and such other factors as the Secretary determines should be considered for the purpose of establishing fair and equitable feed grain allotments.

(3) Feed grain allotment; reduction or loss; election of nonpayment; national pool of eliminated acres for adjustment of feed grain allotment; acreage planted to feed grains; feed grain acreage planted for harvest when subject to natural disaster or other uncontrolled condition; other acreage as feed grain acreage

If for any crop the total acreage on a farm planted to feed grains included in the program formulated under this subsection is less than the feed grain allotment for the farm, the feed grain allotment for the farm for the succeeding crops shall be reduced by the percentage by which the planted acreage is less than the feed grain allotment for the farm, but such reduction shall not exceed 20 per centum of the feed grain allotment. If no acreage has been planted to such feed grains for three consecutive crop years on any farm which has a feed grain allotment, such farm shall lose its feed grain allotment: *Provided,* That no farm feed grain allotment shall be reduced or lost through failure to plant, if the producer elects not to receive payment for such portion of the farm feed grain allotment not planted, to which he would otherwise be entitled under the provisions of this Act. Any such acres eliminated from any farm shall be assigned to a national pool for the adjustment of feed grain allotments as provided for in subdivision (e)(2) of this section. Producers on any farm who have planted to such feed grains not less than 90 per centum of the feed grain allotment shall be considered to have planted an acreage equal to 100 per centum of such allotment. An acreage on the farm which the Secretary determines was not planted to such feed grains because of drought, flood, or other natural disaster or condition beyond the control of the producer shall be considered to be an acreage of feed grains planted for harvest. For the purpose of this paragraph, the Secretary may permit producers of feed grains to have acreage devoted to soybeans, wheat, guar, castor beans, cotton, triticale, oats, rye, or such other crops as the Secretary may deem appropriate, considered as devoted to the production of such feed grains to such extent and subject to such terms and conditions as the Secretary determines will not impair the effective operation of the program.

(c)(1) Cropland set-aside; excessive stocks; adequate carryover; conservation uses acreage; crop year feed grain acreage limitation; "feed grains" for consideration of wheat as feed grain acreage; consideration of section 1339c feed grains diversion program; authorization of set-aside acreage for grazing and production of other commodities

The Secretary shall provide for a set-aside of cropland if he determines that the total supply of feed grains or other commodities will, in the absence of such a set-aside, likely be excessive taking into account the need for an adequate carryover to maintain reasonable and stable supplies and prices of feed grains and to meet a national emergency. If a set-aside of cropland is in effect under this subsection (c), then as a condition of eligibility for loans, purchases, and payments on corn, grain sorghums, and, if designated by the Secretary, barley, respectively, the producers on a farm must set aside and devote to approved conservation uses an acreage of cropland equal to (i) such percentage of the feed grain allotment for the farm as may be specified by the Secretary, plus, if required by the Secretary (ii) the acreage of cropland on the farm devoted in preceding years to soil conserving uses, as determined by the Secretary. The Secretary is authorized for the 1974 through 1977 crops to limit the acreage planted to feed grains on the farm to a percentage of the farm acreage allotment. If for any crop, the producer so requests for purposes of having acreage devoted to the production of wheat considered as devoted to the production of feed grains, pursuant to the provisions of section 1339c of this title, the term "feed grains" shall include oats and rye, and barley, if not desig-

nated by the Secretary as provided above. Such section 1339c of this title shall be effective in 1971 through 1977 to the same extent as it would be if a diversion program were in effect for feed grains during each of such years. The Secretary shall permit producers to plant and graze on set-aside acreage sweet sorghum, and the Secretary may permit, subject to such terms and conditions as he may prescribe, all or any of the set-aside acreage to be devoted to hay and grazing or the production of guar, sesame, safflower, sunflower, castor beans, mustard seed, crambe, plantago ovato, flaxseed, triticale, oats, rye, or other commodity, if he determines that such production is needed to provide an adequate supply, is not likely to increase the cost of the price-support program, and will not adversely affect farm income.

(2) Land diversion payments for conservation uses acreage; rate; conservation uses acreage limitation

To assist in adjusting the acreage of commodities to desirable goals, the Secretary may make land diversion payments, in addition to the payments authorized in subsection (b) of this section, to producers on a farm who, to the extent prescribed by the Secretary, devote to approved conservation uses an acreage of cropland on the farm in addition to that required to be so devoted under paragraph (1). The land diversion payments for a farm shall be at such rate or rates as the Secretary determines to be fair and reasonable taking into consideration the diversion undertaken by the producers and the productivity of the acreage diverted. The Secretary shall limit the total acreage to be diverted under agreements in any county or local community so as not to adversely affect the economy of the county or local community.

(3) Protective measures; wildlife use standards; Federal sharing of cost; additional payments for public use

The feed grain program formulated under this section shall require the producer to take such measures as the Secretary may deem appropriate to protect the set-aside acreage and the additional diverted acreage from erosion, insects, weeds, and rodents. Such acreage may be devoted to wildlife food plots or wildlife habitat in conformity with standards established by the Secretary in consultation with wildlife agencies. The Secretary may, in the case of programs for the 1974 through 1977 crops, pay an appropriate share of the cost of practices designed to carry out the purposes of the foregoing sentences. The Secretary may provide for an additional payment on such acreage in an amount determined by the Secretary to be appropriate in relation to the benefit to the general public if the producer agrees to permit, without other compensation, access to all or such portion of the farm as the Secretary may prescribe by the general public, for hunting, trapping, fishing, and hiking, subject to applicable State and Federal regulations.

(4) Participation agreement of farm operators, filing; soil conserving uses acreage requirement; mutual termination of agreement for emergencies or limited supplies

If the operator of the farm desires to participate in the program formulated under this section, he shall file his agreement to do so no later than such date as the Secretary may prescribe. Loans and purchases on feed grains included in the set-aside program and payments under this section shall be made available to producers on such farm only if the producers set aside and devote to approved soil conserving uses an acreage on the farm equal to the number of acres which the operator agrees to set aside and devote to approved soil conserving uses, and the agreement shall so provide. The Secretary may, by mutual agreement with the producer, terminate or modify any such agreement entered into pursuant to this paragraph if he determines such action necessary because of an emergency created by drought or other disaster, or in order to prevent or alleviate a shortage in the supply of agricultural commodities.

(d) Sharing of payments; fair and equitable basis

The Secretary shall provide for the sharing of payments under this section among producers on the farm on a fair and equitable basis.

(e) Feed grains acreage adjustments; factors affecting production; State or county adjustments without increasing State acreage; drawing from acreage pool; downward adjustments

(1) Repealed. Pub. L. 93-86, § 1(18)(F), formerly § 1(18)(E), Aug. 10, 1973, 87 Stat. 232, renumbered Pub. L. 93-125, § 1(d)(ii), Oct. 18, 1973, 87 Stat. 450.

(2) The Secretary may make such adjustments in acreage under this section as he determines necessary to correct for abnormal factors affecting production, and to give due consideration to tillable acreage, crop-rotation practices, types of soil, soil and water conservation measures, and topography, and in addition, in the case of conserving use acreages to such other factors as he deems necessary in order to establish a fair and equitable conserving use acreage for the farm. The Secretary shall, upon the request of a majority of the State committee established pursuant to section 590h(b) of title 16, adjust the feed grain allotments for farms within any State or county in order to establish fair and equitable feed grain allotments for farms within such State or county: *Provided,* That except for acreage provided for in subsection (b)(3) of this section, adjustments made pursuant to this sentence shall not increase the total State feed grain acreage. The Secretary is authorized to draw upon the acreage pool provided for in subsection (b)(3) of this section in making such adjustments. Notwithstanding any other provision of this subsection, the feed grain allotment for the farm shall be adjusted downward to the extent required by subsection (b)(3) of this section.

(f) Equitable amounts for loans, purchases, and payments in relation to seriousness of defaults in spite of noncompliance with terms and conditions of program

In any case in which the failure of a producer to comply fully with the terms and conditions of the program formulated under this section precludes the making of loans, purchases, and payments, the Secretary may, nevertheless, make such loans, purchases, and payments in such amounts as he determines to be equitable in relation to the seriousness of the default.

(g) Repealed. Pub. L. 93-86, § 1(18)(F), formerly § 1(18)(E), Aug. 10, 1973, 87 Stat. 232, renumbered Pub. L. 93-125, § 1(d)(ii), Oct. 18, 1973, 87 Stat. 450

(h) Regulations

The Secretary is authorized to issue such regulations as he determines necessary to carry out the provisions of this section.

(i) Commodity Credit Corporation execution of feed grains programs

The Secretary shall carry out the program authorized by this section through the Commodity Credit Corporation.

(Oct. 31, 1949, ch. 792, title I, § 105, as added Oct. 31, 1949, ch. 792, title I, § 104(b)(2), as added Aug. 28, 1958, Pub. L. 85-835, title II, § 201, 72 Stat. 994, and amended Mar. 22, 1961, Pub. L. 87-5, § 1, 75 Stat. 6; Aug. 8, 1961, Pub. L. 87-128, title I, § 131, 75 Stat. 301; Mar. 30, 1962, Pub. L. 87-425, § 1, 76 Stat. 50; Sept. 27, 1962, Pub. L. 87-703, title III, §§ 301, 305, 76 Stat. 612, 614; May 20, 1963, Pub. L. 88-26, § 2, 77 Stat. 44; Aug. 6, 1965, Pub. L. 89-112, § 1, 79 Stat. 446; Nov. 3, 1965, Pub. L. 89-321, title III, § 301, 79 Stat. 1188; June 17, 1966, Pub. L. 89-451, § 2, 80 Stat. 202; Nov. 3, 1965, Pub. L. 89-321, title III, § 301, as amended Oct. 11, 1968, Pub. L. 90-559, § 1(1), 82 Stat. 996; Nov. 30, 1970, Pub. L. 91-524, title V, § 501, 84 Stat. 1368; Nov. 30, 1970, Pub. L. 91-524, title V, § 501, as amended Aug. 10, 1973, Pub. L. 93-86, § 1(18), 87 Stat. 230; Aug. 10, 1973, Pub. L. 93-86, § 1(18), 87 Stat. 230; Aug. 10, 1973, Pub. L. 93-86, § 1(18), as amended Oct. 18, 1973, Pub. L. 93-125, § 1(d), 87 Stat. 50; Dec. 29, 1973, Pub. L. 93-228, § 1(b), 87 Stat. 944.)

REFERENCES IN TEXT

This Act, referred to in subsec. (b)(3), is the Agricultural Act of 1949, act Oct. 31, 1949, ch. 792, 63 Stat. 1051. For classification of this Act to the Code, see Short Title note set out under section 1421 of this title and Tables volume.

AMENDMENTS

1973—Pub. L. 93-228 amended feed grains program for 1974 through 1977, as described hereunder.

Pub. L. 93-125 amended feed grain loan and purchases price support program for 1974 through 1977, as described hereunder.

Pub. L. 93-86 enacted feed grain loans and purchases price support program for 1974 through 1977, as described hereunder.

Pub. L. 91-524, § 501, as amended Pub. L. 93-86, § 1(18)(A), reenacted introductory text without change.

Subsec. (a)(1). Pub. L. 91-524, § 501, as amended Pub. L. 93-86, § 1(18)(A), increased minimum corn crop support level from $1.00 to $1.10 per bushel.

Subsec. (a)(2). Pub. L. 91-524, § 501, as amended Pub. L. 93-36, § 1(18)(A), reenacted par. (2) provisions without change.

Subsec. (b)(1). Pub. L. 91-524, § 501, as amended Pub. L. 93-86, § 1(18)(B), added par. (1). Former par. (1) related to subject matter as described in 1970 Amendment note for subsec. (b)(1) of this section.

Subsec. (b)(1) last sentence. Pub. L. 93-228 substituted "(or of wheat, or cotton planted in lieu of the allotted crop)" for "(or other nonconserving crop planted instead of feed grains)".

Subsec. (b)(2). Pub. L. 91-524, § 501, as amended Pub. L. 93-86, § 1(18)(B), added par. (2). Former par. (2) made payments with respect to a farm available on 50 per centum of the feed grain base for the farm and for computation of the payments on the basis of the yield established for the farm for the preceding crop with such adjustments as the Secretary determines necessary to provide a fair and equitable yield.

Subsec. (b)(3). Pub. L. 91-524, § 501, as amended Pub. L. 93-86, § 1(18)(B), substituted in: first sentence, "the feed grain allotment for the farm, the feed grain allotment for the farm for the succeeding crops shall be reduced by the percentage by which the planted acreage is less than the feed grain allotment for the farm, but such reduction shall not exceed 20 per centum of the feed grain allotment" for "the portion of the feed grain base for the farm on which payments are available under this subsection, the feed grain base for the farm for the succeeding crops shall be reduced by the percentage by which the planted acreage is less than such portion of the feed grain base for the farm, but such reduction shall not exceed 20 per centum of the feed grain base"; second sentence, including proviso, "feed grain allotment" for "feed grain base"; third sentence, "feed grain allotments" for "feed grain bases"; fourth sentence, "90 per centum of the feed grain allotment" for "90 per centum of the portion of the feed grain base on which payments are made available" and "100 per centum of such allotment" for "100 per centum of such portion"; and sixth sentence "effective operation of the program" for "effective operation of the feed grain or soybean program"; and authorized acreage devoted to guar, castor beans, cotton, triticale, oats, rye, or such other crops as the Secretary may deem appropriate, to be considered as feed grain acreage.

Subsec. (c)(1) second sentence. Pub. L. 93-86, § 1(18)(D), formerly § 1(18)(C [second]), renumbered by Pub. L. 93-125, § 1(d)(ii), substituted in item (i) "feed grain allotment" for "feed grain base", inserted preceding item (ii) ", if required by the Secretary", and substituted in item (ii) "soil conserving uses" for "soil-conserving uses".

Subsec. (c)(1) third sentence. Pub. L. 93-86, § 1(18)(E), formerly § 1(18)(D), renumbered by Pub. L. 93-125, § 1(d)(ii), substituted "The Secretary is authorized for the 1974 through 1977 crops to limit the acreage planted to feed grains on the farm to a percentage of the farm acreage allotment." for "The Secretary is authorized for the 1971, 1972, and 1973 crops to limit the acreage planted to feed grains on the farm to such percentage of the feed grain base as he determines necessary to provide an orderly transition to the program provided for under this section."

Subsec. (c)(1) fifth sentence. Pub. L. 93-86, § 1(18)(D), formerly § 1(18)(C [second]), renumbered by Pub. L. 93-125, § 1(d)(ii), substituted "1971 through 1977" for "1971, 1972, 1973".

Subsec. (c)(1) last sentence. Pub. L. 93-86, § 1(18)(C), as amended Pub. L. 93-125, § 1(d)(i), authorized set-aside acreage to be devoted to hay and production of triticale, oats, and rye, and deleted item (1) and (2) designation of existing provisions, and former introductory text reading "Grazing shall not be permitted during any of the five principal months of the normal growing season as determined by the county committee established pursuant to section 590h(b) of Title 16, and subject to this limitation", and provided for such provisions as run-in rather than new-paragraph text.

Subsec. (c)(3). Pub. L. 93-86, § 1(18)(G), formerly § 1(18)(F), renumbered by Pub. L. 93-125, § 1(d)(ii), inserted after provision for devotion of set-aside acreage and diverted acreage to wildlife food plots or wildlife habitat the sentence "The Secretary may, in the case of programs for the 1974 through 1977 crops, pay an appropriate share of the cost of practices designed to carry out the purposes of the foregoing sentences."

Subsec. (e)(1). Pub. L. 93-86, § 1(18)(F), formerly § 1(18)(E), renumbered by Pub. L. 93-125, § 1(d)(ii), struck out provision reading "For the purpose of this section, the feed grain base shall be the average acreage devoted on the farm to corn, grain sorghums and, if designated by the Secretary, barley in 1959 and 1960."

Subsec. (e)(2). Pub. L. 93-86, § 1(18)(F), formerly § 1(18)(E), renumbered by Pub. L. 93-125, § 1(d)(ii), substituted "farm grain allotments" for "farm grain bases" wherever appearing.

Subsec. (e)(3). Pub. L. 93-86, § 1(18)(F), formerly § 1(18)(E), renumbered by Pub. L. 93-125, § 1(d)(ii), struck out provisions respecting reservation for farms in a State for any year for apportionment to farms without 1959 and 1960 acreage, apportionment factors, prohibition against reflection of new cropland by such reserved allocation, and consideration of farm feed grain base as farm feed grain acreage for 1959 and 1960 crop years.

Subsec. (g). Pub. L. 93-86, § 1(18)(F), formerly § 1(18)(E), renumbered by Pub. L. 93-125, § 1(d)(ii), struck out provisions for preliminary payments, time and rate of payment, and reduction of preliminary payment rate.

1970—Pub. L. 91-524 enacted feed grains loans and purchases price support program for 1971, 1972, and 1973, as described hereunder.

Pub. L. 91-524 substituted as introductory text "Notwithstanding any other provision of law" for former subsec. (a) introductory text "Notwithstanding the provisions of section 1441 of this title".

Subsec. (a)(1). Pub. L. 91-524 substituted par. (1) provisions making loans and purchases available on corn crop at such level, not less than $1.00 per bushel nor in excess of 90 per centum of the parity price therefor, as the Secretary determines will encourage exportation of feed grains and not result in excessive total stocks of feed grains in the United States for former subsec. (a) provisions for such corn price support level, beginning with 1964 crop, not less than 50 per centum or more than 90 per centum of the parity price therefor, as the Secretary determines will not result in increasing Commodity Credit Corporation stocks of corn, including proviso for such corn price support level, in the case of any crop for which an acreage diversion program is in effect for feed grains, not less than 65 per centum or more than 90 per centum of the parity price therefor as the Secretary determines necessary to achieve the acreage reduction goal established by him for the crop.

Subsec. (a)(2). Pub. L. 91-524 substituted par. (2) provisions making loans and purchases available on each crop of barley, oats, and rye, at such level as the Secretary determines is fair and reasonable in relation to the level that loans and purchases are made available for corn, taking into consideration the feeding value of such commodity in relation to corn and other factors specified in section 1421(b) of this title, and on each crop of grain sorghums at such level as the Secretary determines is fair and reasonable in relation to the level that loans and purchases are made available for corn, taking into consideration the feeding value and average transportation costs to market of grain sorghums in relation to corn for former subsec. (b) provisions for such price support level on each crop of oats, rye, barley, and grain sorghums, beginning with the 1959 crop, at such level of the parity price therefor as the Secretary of Agriculture determines is fair and reasonable in relation to the level at which price support is made available for corn, taking into consideration the feeding value of such commodity in relation to corn, and the other factors set forth in section 1421(b) of this title.

Subsec. (b)(1). Pub. L. 91-524 made payments available for crops of corn, grain sorghums, and barley; prescribed as payment rate for corn such rate as, together with the national average market price received by farmers during first five months of the marketing year for the crop would not be less than (A) $1.35 per bushel, or (B) 70 per centum of the parity price of corn as of the beginning of the marketing year, whichever was the greater; prescribed as payment rate for grain sorghums and barley such rate as was fair and reasonable in relation to the rate at which payments were made available for corn; and prescribed rate of payment for 1973 crop would not be such as would result in a total amount of payments which Secretary estimated would be made pursuant to this subsection with respect to 1973 crop of feed grains above total amount of payments made pursuant to this subsection with respect to 1972 crop of feed grains by reason of level specified in clause (B) being fixed above 68 per centum of the parity price for the corn.

Subsec. (b)(2). Pub. L. 91-524 made payments with respect to a farm available on 50 per centum of the feed grain base for the farm and for computation of the payments on the basis of the yield established for the farm for the preceding crop with such adjustments as the Secretary determines necessary to provide a fair and equitable yield.

Subsec. (b)(3). Pub. L. 91-524 added par. (3).

Former subsec. (b) provided that "Beginning with the 1959 crop, price support shall be made available to producers for each crop of oats, rye, barley, and grain sorghums at such level of the parity price therefor as the Secretary of Agriculture determines is fair and reasonable in relation to the level at which price support is made available for corn, taking into consideration the feeding value of such commodity in relation to corn, and the other factors set forth in section 1421(b) of this title," and is now incorporated in subsec. (a)(2) of this section.

Subsec. (c)(1). Pub. L. 91-524 required cropland setaside, taking into consideration excessive stocks and adequate carryover, and provided for conservation uses acreage, crop year feed grain acreage limitation, "feed grains" for consideration of wheat as feed grain acreage, consideration of section 1339c feed grains diversion program, grazing restriction, and authorization of set-aside acreage for grazing and production of other commodities.

Subsec. (c)(2). Pub. L. 91-524 provided for land diversion payments for conservation uses acreage and for conservation uses acreage limitation.

Subsec. (c)(3). Pub. L. 91-524 required protective measures and provided for wildlife use standards and additional payments for public use.

Subsec. (c)(4). Pub. L. 91-524 provided for filing of participation agreement of farm operators, soil conserving uses acreage requirement, and mutual termination of agreement because of emergencies or limited supplies.

Subsec. (d). Pub. L. 91-524 redesignated ninth sentence of former subsec. (e) as (d) and substituted "sharing of payments under this section among producers on the farm on a fair and equitable basis" for "sharing of such certificates among producers on the farm on the basis of their respective shares in the feed grain crop produced on the farm, or the proceeds therefrom, except that in any case in which the Secretary determines that such basis would not be fair and equitable, the Secretary shall provide for such sharing on such other basis as he may determine to be fair and equitable".

Subsec. (e). Pub. L. 91-524 added subsec. (e).

Subsec. (f). Pub. L. 91-524 redesignated last sentence of former subsec. (e) as (f) and substituted "under this section precludes the making of loans, purchases, and payments" and "make such loans, purchases, and payments" for "under this subsection (e) and subsection (e) of this section preclude the making of payments-in-kind" and "make such payments-in-kind".

Subsecs. (g) to (i). Pub. L. 91-524 added subsecs. (g) to (i).

1968—Pub. L. 90-559 amended feed grains price support program for 1966 through 1969, extending such program through 1970, as described hereunder.

Subsec. (e). Pub. L. 89-321, as amended Pub. L. 90-559, substituted in provision of text "1966 through 1970 crops of feed grains" reference to "1970" for "1969".

1966—Pub. L. 89-451 amended feed grains price support program for 1966 through 1969, as described hereunder.

Subsec. (e). Pub. L. 89-451 substituted in sixth sentence "planted to any other crop for which there are marketing quotas or voluntary adjustment programs

in effect" for "planted to any other income-producing crop during such year".

1965—Pub. L. 89-321 enacted feed grains price support program for 1966 through 1969, as described hereunder.

Pub. L. 89-112 amended feed grains price support program for 1965, as described hereunder.

Subsec. (d). Pub. L. 89-112 added an eleventh sentence reading "An acreage on the farm which the Secretary finds was not planted to feed grains in 1965 because of flood, drought, or other natural disaster shall be deemed by the Secretary to be an actual acreage of feed grains planted on the farm for harvest for purposes of this subsection, provided such acreage is not subsequently devoted to any price supported crop for 1965."

Subsec. (e). Pub. L. 89-321, in adding subsec. (e), enacted feed grains price support program for 1966 through 1969, as described hereunder.

Subsec. (e) first sentence. Pub. L. 89-321 required as a condition of eligibility for price support for 1966 through 1969 crops of feed grains on crop of feed grains included in any acreage diversion program under section 590p(i) of Title 16, participation of producer in the diversion program to the extent prescribed by the Secretary, and as a condition of eligibility for such price support if a diversion program was not in effect for 1966 through 1969 crops, that feed grain base be not exceeded by producer, provided that acreage on farm diverted from production of feed grains pursuant to contract under Cropland Adjustment Program shall be deemed acreage diverted from production of feed grains for purposes of eligibility requirements, and excepted producer of malting barley from requirement of participation in the acreage diversion program for feed grains if such producer had previously produced a malting variety of barley, planted barley only of an acceptable malting variety for harvest, did not devote barley farm acreage in excess of 110 per centum of average acreage devoted to barley in 1959 and 1960, did not devote corn and grain sorghums farm acreage in excess of average acreage devoted to corn and grain sorghums in 1959 and 1960, and did not devote oats and rye acreage in 1959 and 1960 to production of wheat pursuant to section 1339c of this title.

Subsec. (e) second sentence. Pub. L. 89-321 incorporated third sentence of former subsec. (d) as second sentence of subsec. (e) and substituted "price-support" and "payments-in-kind" for "price support" and "payments in kind".

Subsec. (e) third sentence. Pub. L. 89-321 made payments-in-kind available on maximum permitted acreage and authorized the Secretary to make available the same total amount on a smaller acreage or acreages at a higher rate or rates.

Subsec. (e) fourth sentence. Pub. L. 89-321 incorporated fourth sentence of former subsec. (d) as fourth sentence of subsec. (e), substituted bushel determination provision calling for multiplication of that part of the actual acreage of such feed grain planted on the farm for harvest on which the Secretary made such payments available by the farm projected yield per acre for prior provision calling for such multiplication of actual acreage of such feed grain planted on the farm for harvest by the adjusted average yield per acre, and added proviso respecting consideration of soybean as feed grain acreage to such extent and subject to such terms and conditions as Secretary determined would not impair effective operation of price support program and proviso deeming entire feed grains acreage as so planted when 90 per centum of feed grains acreage permitted to be planted has been so planted.

Subsec. (e) fifth sentence. Pub. L. 89-321 authorized reduction of that portion of the support price which was made available through loans and purchases for the 1966 through 1969 crops below the loan level for the 1965 crop by such amounts and in such stages as might be necessary to promote increased participation in the feed grain program, taking into account increases in yields, but so as not to disrupt the feed grain and livestock economy, without modifying or affecting Secretary's discretion to maintain or increase total price support levels to cooperators.

Subsec. (e) sixth sentence. Pub. L. 89-321 incorporated eleventh sentence of former subsec. (d) as sixth sentence of subsec. (e) and substituted "planted to feed grains" for "planted to feed grains in 1965" and "deemed to be an actual acreage of feed grains planted for harvest for purposes of such payments provided such acreage is not subsequently planted to any other income-producing crop during such year" for "deemed by the Secretary to be an actual acreage of feed grains planted on the farm for harvest for purposes of this subsection, provided such acreage is not subsequently devoted to any price supported crop for 1965".

Subsec. (e) seventh sentence. Pub. L. 89-321 incorporated sixth sentence of former subsec. (d) as seventh sentence of subsec. (e).

Subsec. (e) eighth sentence. Pub. L. 89-321 incorporated seventh sentence of former subsec. (d) as eighth sentence of subsec. (e) and substituted "Payments-in-kind" for "Such payments in kind", parenthetical text "valued by the Secretary at not less than the current support price made available through loans and purchases" for "valued by the Secretary at not less than the current support price minus that part of the current support price made available through payments in kind", and "in accordance with regulations prescribed by the Secretary and notwithstanding any other provision of law" for "and, notwithstanding any other provisions of law".

Subsec. (e) ninth sentence. Pub. L. 89-321 incorporated ninth sentence of former subsec. (d) as ninth sentence of subsec. (e) and substituted "basis of their respective shares in the feed grain crop produced on the farm, or the proceeds therefrom, except that in any case in which the Secretary determines that such basis would not be fair and equitable, the Secretary shall provide for such sharing on such other basis as he may determine to be fair and equitable" for "basis of their respective shares in the crop produced on the farm with respect to which such certificates are issued, or the proceeds therefrom".

Subsec. (e) tenth sentence. Pub. L. 89-321 incorporated tenth sentence of former subsec. (d) as tenth sentence of subsec. (e) and substituted ", in accordance with the provisions of such program," for "in accordance with the provisions of such program".

Subsec. (e) eleventh sentence. Pub. L. 89-321 authorized the Secretary, where the failure of a producer to comply with the terms and conditions of the programs formulated under subsecs. (d) and (e) of this section precluded making payments-in-kind, to make such payments-in-kind in such amounts as he determined to be equitable in relation to the seriousness of the default.

1963—Pub. L. 88-26 amended feed grains support program for 1962, and enacted feed grains support program for 1964 and 1965, as described hereunder.

Subsec. (a). Pub. L. 88-26, § 2(1), added proviso for such corn price support level, in the case of any crop for which an acreage diversion program is in effect for feed grains, not less than 65 per centum or more than 90 per centum of the parity price therefor as the Secretary determines necessary to achieve the acreage reduction goal established by him for the crop.

Subsec. (d). Pub. L. 88-26, § 2(2), in adding subsec. (d), enacted feed grains support program for 1964 and 1965, as described hereunder.

Subsec. (d) first sentence. Pub. L. 88-26, § 2(2), made subsec. (d) applicable to 1964 and 1965 feed grains crops if an acreage diversion program was in effect under section 590p(h) of Title 16.

Subsec. (d) second sentence. Pub. L. 88-26, § 2(2), required as a condition of eligibility for price support on crop of feed grain included in the acreage diversion program, participation of producer in the diversion program to the extent prescribed by the Secretary, and as a condition of eligibility for such price support if a diversion program was not in effect for 1964 or

1965 crop, that feed grain base be not exceeded by producer and excepted producer of malting barley from requirement of participation in the acreage diversion program for feed grains if such producer had previously produced a malting variety of barley, planted barley only of an acceptable malting variety for harvest, did not devote barley farm acreage in excess of 110 per centum of average acreage devoted to barley in 1959 and 1960, did not devote corn and grain sorghums farm acreage in excess of average acreage devoted to corn and grain sorghums in 1959 and 1960, and did not devote oats and rye acreage in 1959 and 1960 to production of wheat pursuant to section 1339c of this title.

Subsec. (d) third sentence. Pub. L. 88-26, § 2(2), authorized payments in kind for such portion of support price for any feed grain included in the acreage diversion program to assure that benefits of price support and diversion programs inure primarily to those producers who cooperate in feed grains acreage reductions.

Subsec. (d) fourth sentence. Pub. L. 88-26, § 2(2), provided for payments in kind on number of bushels of feed grain determined by multiplying actual acreage of feed grain planted on the farm for harvest by adjusted average yield per acre.

Subsec. (d) fifth sentence. Pub. L. 88-26, § 2(2), made base period used in determining adjusted average yield the same as used for purposes of acreage diversion program under section 590p(h) of Title 16.

Subsec. (d) sixth sentence. Pub. L. 88-26, § 2(2), authorized 50 per centum payments to producers in advance of determination of performance.

Subsec. (d) seventh sentence. Pub. L. 88-26, § 2(2), provided for payments in kind through issuance of negotiable certificates, redemption for feed grains by the CCC (such feed grains to be valued by the Secretary at not less than the current support price minus that part of the current support price made available through payments in kind, plus reasonable carrying charges), and for assistance of CCC in marketing of the certificates.

Subsec. (d) eighth sentence. Pub. L. 88-26, § 2(2), provided for deduction from value of negotiable certificates, not presented for redemption within thirty days of date of issuance, or reasonable costs of storage and other carrying charges, for the period beginning thirty days after issuance and ending with date of presentation for redemption.

Subsec. (d) ninth sentence. Pub. L. 88-26, § 2(2), required the Secretary to provide for sharing of negotiable certificates among producers on the farm on basis of respective shares in the crop produced on the farm with respect to which such certificates were issued, or the proceeds therefrom.

Subsec. (d) tenth sentence. Pub. L. 88-26, § 2(2), conditioned availability of price support for feed grains included in acreage diversion program, where operator of farm elected to participate in the acreage diversion program, to producers on farm diverting from feed grain production under the program an acreage on the farm equal to number of acres which operator agreed to divert, and agreement so provided.

1962—Pub. L. 87-703 enacted feed grains price support program for 1963, as described hereunder.

Pub. L. 87-425 amended feed grains support program for 1962, as described hereunder.

Subsec. (a). Pub. L. 87-703, § 305, substituted provisions for such corn price support level, beginning with 1964 crop, not less than 50 per centum or more than 90 per centum of the parity price therefor, as the Secretary determines will not result in increasing Commodity Credit Corporation stocks of corn for former corn price support, beginning with 1959 crop, at 90 per centum of the average price received by farmers during the three calendar years immediately preceding the calendar year in which the marketing year for such crops began, adjusted to offset the effect on such price of any abnormal quantities of low-grade corn marketed during any of such year, provided the level of price support for any crop of corn be not less than 65 per centum of the parity price therefor.

Subsec. (c). Pub. L. 87-703, § 301, in adding subsec. (c) (5) and (6), enacted feed grains price support program for 1963, as described hereunder.

Subsec. (c)(4). Pub. L. 87-425 excepted producer of barley on a summer-fallow farm from requirement of participation in special agricultural conservation program for 1962 for barley if such producer did not devote barley farm acreage in excess of average acreage devoted to barley in 1959 and 1960 plus the acreage devoted to summer fallow in 1961 which was diverted from the production of wheat under the special 1962 wheat program and did not devote corn, grain sorghums, and barley farm acreage in excess of 80 per centum of average acreage devoted to corn, grain sorghums, and barley in 1959 and 1960.

Subsec. (c)(5). Pub. L. 87-703, § 301, required establishment of 1963 corn crop price support at such level not less than 65 per centum of parity price as Secretary might determine; provided for: payments in kind in amount of 18 cents per bushel of support price for corn, and comparable portion of support price for grain sorghums and barley; such payments on number of bushels of such feed grain determined by multiplying actual acreage of such feed grain planted on the farm for harvest in 1963 by the adjusted average yield per acre for 1959 and 1960 crop acreage of such feed grain; such payments through issuance of negotiable certificates redeemable by CCC for corn, grain sorghums, and barley (such feed grains to be valued by the Secretary at not less than support price minus that part of support price made available through payments in kind) and for CCC assistance to producer in marketing of such certificates; deduction from value of the certificate, in the case of any certificate not presented for redemption within 30 days of date of its issuance, reasonable costs of storage and other carrying charges for period beginning 30 days after its issuance and ending with the date of its presentation for redemption; and basis for sharing of such certificate among producers on the farm; and conditioned availability of price support to inclusion of prescribed acreage diversion where operator of farm elected to participate in the special agricultural conservation program for 1963, for corn, grain sorghums, and barley.

Subsec. (c)(6). Pub. L. 87-703, § 301, required as a condition of eligibility for price support on 1963 crop of corn, grain sorghums, and barley participation of producer in special agricultural conservation program for 1963 for corn, grain sorghums, and barley to the extent prescribed by the Secretary and excepted producer of malting barley from requirement of participation in special agricultural conservation program for 1963 if such producer had previously produced a malting variety of barley, planted barley only of an acceptable malting variety for harvest in 1963, and did not devote barley farm acreage in excess of 110 per centum of average acreage devoted to barley in 1959 and 1960, and did not devote corn and grain sorghums farm acreage in excess of average acreage devoted to corn and grain sorghums in 1959 and 1960.

1961—Pub. L. 87-128 enacted feed grains price support program for 1962, as described hereunder.

Pub. L. 87-5 enacted special feed grains price support program for 1961, as described hereunder.

Subsec. (c). Pub. L. 87-128, in adding subsecs. (c)(3) and (4), enacted feed grains price support program for 1962, as discribed hereunder.

Pub. L. 87-5, in adding subsecs. (c)(1) and (2), enacted special feed grains price support program for 1961, as described hereunder.

Subsec. (c)(1). Pub. L. 87-5 required establishment of 1961 corn crop price support at such level not less than 65 per centum of parity price as Secretary might determine and made corn and grain sorghums price support available on not to exceed the normal production of 1961 acreage of corn and grain sorghums of each eligible farm based on average yield per acre for 1959 and 1960 crop acreage.

Subsec. (c)(2). Pub. L. 87-5 required as a condition of eligibility for price support on 1961 crop of corn, grain sorghums, and any other feed grain designated by the Secretary, participation of producer in special agricultural conservation program for 1961 for corn and grain sorghums to the extent prescribed by the Secretary.

Subsec. (c)(3). Pub. L. 87-128 required establishment of 1962 corn crop price support at such level not less than 65 per centum of parity price as Secretary might determine and made corn, grain sorghums, and barley price support available on not to exceed the normal production of 1962 acreage of corn, grain sorghums, and barley of each eligible farm based on average yield per acre for 1959 and 1960 crop acreage.

Subsec. (c)(4). Pub. L. 87-128 required as a condition of eligibility for price support on 1962 crop of corn and grain sorghums participation of producer in special agricultural conservation program for 1962 for corn and grain sorghums to the extent prescribed by the Secretary and prohibited farm acreage devoted to barley in excess of average acreage devoted to barley in 1959 and 1960; required as a condition of eligibility for price support on 1962 crop of barley participation of producer in special agricultural conservation program for 1962 for barley to the extent prescribed by the Secretary and prohibited farm acreage devoted to corn and grain sorghums in excess of average acreage devoted to corn and grain sorghums in 1959 and 1960; and excepted producer of malting barley from requirement of participation in special agricultural conservation program for 1962 for barley if such producer had previously produced a malting variety of barley, planted barley only of an acceptable malting variety for harvest in 1962, and did not devote barley farm acreage in excess of 110 per centum of average acreage devoted to barley in 1959 and 1960, and did not devote corn and grain sorghums farm acreage in excess of average acreage devoted to corn and grain sorghums in 1959 and 1960.

1958—Pub. L. 85-835 enacted corn and feed grains price support provisions, beginning with the 1959 crop as described hereunder.

Subsec. (a). Pub. L. 85-835 made corn price support available, beginning with 1959 crop, at 90 per centum of average price received by farmers during three calendar years immediately preceding calendar year in which marketing year for the crop begins, adjusted to offset effect on such price of any abnormal quantities of low-grade corn marketed during any of such year, with minimum price support level at 65 per centum of parity price for any crop of corn.

Subsec. (b). Pub. L. 85-835 made price support available, beginning with 1959 crop, for each crop of oats, rye, barley, and grain sorghums, at such level of parity price as Secretary of Agriculture determined was fair and reasonable in relation to price support level for corn, taking into consideration the feeding value of such commodity in relation to corn, and the other factors set forth in section 1421(b) of this title.

EFFECTIVE DATE OF 1973 AMENDMENT

Section 501 of Pub. L. 91-524, as amended by section 1(18) of Pub. L. 93-86, provided for amendment of such section 501, amending this section, effective only with respect to the 1974 through 1977 crops of feed grains.

Section 501(a), formerly 501, of Pub. L. 91-524, renumbered and amended by section 1(18)(A) of Pub. L. 93-86 provided for amendment of subsec. (a) of this section effective only with respect to the 1971 through 1977 crops of feed grains.

Section 501(b) of Pub. L. 91-524, as added by section 1(18)(B) of Pub. L. 93-86 provided for amendment of subsec. (b) of this section effective only with respect to the 1974 through 1977 crops of feed grains.

EFFECTIVE DATE OF 1970 AMENDMENT

Section 501 of Pub. L. 91-524 provided for amendment of section effective only with respect to the 1971, 1972, and 1973 crops of feed grains.

1958 REFERENDUM FOR SELECTION OF ALTERNATIVE CORN PROGRAM; OPERATIVE STATUS OF CERTAIN PROVISIONS

Corn producers voted for adoption of price support program as provided in section 1444a(b) of this title (254,262) rather than alternative corn acreage allotments and price support program (102, 907), the ballot making operative sections 1329a and 1444b and repeal of section 1441(d)(4) of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1444a of this title.

§ 1445. Tobacco price support levels for 1960 and subsequent years

Notwithstanding any of the provisions of section 1441 of this title: (a) For the 1960 crop of any kind of tobacco for which marketing quotas are in effect, or for which marketing quotas are not disapproved by producers, the support level in cents per pound shall be the level at which the 1959 crop of such kind of tobacco was supported, or if marketing quotas were disapproved for the 1959 crop of such kind of tobacco, the level at which the 1959 crop of such kind of tobacco would have been supported if marketing quotas had been in effect. (b) For the 1961 crop and each subsequent crop of any kind of tobacco for which marketing quotas are in effect, or for which marketing quotas are not disapproved by producers, the support level in cents per pound shall be determined by adjusting the support level for the 1959 crop of such kind of tobacco, or if marketing quotas were disapproved for the 1959 crop of such kind of tobacco, the level at which the 1959 crop of such kind of tobacco would have been supported if marketing quotas had been in effect, by multiplying such support level for the 1959 crop by the ratio of (i) the average of the index of prices paid by farmers, including wage rates, interest, and taxes, as defined in section 1301(a)(1)(C) of this title, for the three calendar years immediately preceding the calendar year in which the marketing year begins for the crop for which the support level is being determined to (ii) the average index of such prices paid by farmers, including wage rates, interest, and taxes for the calendar year 1959. (c) If acreage poundage or poundage farm marketing quotas are in effect under section 1314c or 1314e of this title, (1) price support shall not be made available on tobacco marketed in excess of 110 per centum of the marketing quota (after adjustments) for the farm on which such tobacco was produced, and (2) for the purpose of price-support eligibility, tobacco carried over from one marketing year to another shall, when marketed, be considered tobacco of the then current crop.

(Oct. 31, 1949, ch. 792, title I, § 106, as added Feb. 20, 1960, Pub. L. 86-389, § 1, 74 Stat. 6, and amended Apr. 16, 1965, Pub. L. 89-12, § 3, 79 Stat. 72; Apr. 14, 1971, Pub. L. 92-10, § 3, 85 Stat. 27.)

AMENDMENTS

1971—Clause (c). Pub. L. 92-10 inserted introductory reference to section 1314e of this title relating to farm poundage quotas for burley tobacco, in item (1) deleted "(120 per centum in the case of Burley tobacco for the first year for which marketing quotas are made effective under this section)" following "110 per

centum" and inserted "(after adjustments)" following "marketing quota", and in item (2) deleted "to avoid marketings in excess of the farm marketing quota" following "another".

1965—Pub. L. 89-12 added clause (c).

§ 1445a. Wheat price support levels

Notwithstanding any other provision of law—

(a) Loans and purchases on each crop of wheat shall be made available at such level as the Secretary determines appropriate, taking into consideration competitive world prices of wheat, the feeding value of wheat in relation to feed grains, and the level at which price support is made available for feed grains: *Provided,* That in no event shall such level be in excess of the parity price for wheat or less than $1.37 per bushel.

(b) If a set-aside program is in effect for any crop of wheat under section 1379b(c) of this title, payments, loans and purchases shall be made available on such crop only to producers who comply with the provisions of such program.

(c) Payments shall be made for each crop of wheat to the producers on each farm in an amount determined by multiplying (i) the amount by which the higher of—

(1) the national weighted average market price received by farmers during the first five months of the marketing year for such crop, as determined by the Secretary, or

(2) the loan level determined under subsection (a) of this section for such crop

is less than the established price of $2.05 per bushel in the case of the 1974 and 1975 crops, $2.05 per bushel adjusted to reflect any change during the calendar year 1975 in the index of prices paid by farmers for production items, interest, taxes, and wage rates in the case of the 1976 crop, and the established price for the 1976 crop adjusted to reflect any change during the calendar year 1976 in such index in the case of the 1977 crop, times in each case (ii) the allotment for the farm for such crop, times (iii) the projected yield established for the farm with such adjustments as the Secretary determines necessary to provide a fair and equitable yield: *Provided,* That any increase that would otherwise be made in the established price to reflect a change in the index of prices paid by farmers shall be adjusted to reflect any change in (i) the national average yield per acre of wheat for the three calendar years preceding the year for which the determination is made, over (ii) the national average yield per acre of wheat for the three calendar years preceding the year previous to the one for which the determination is made. If the Secretary determines that the producers are prevented from planting any portion of the farm acreage allotment to wheat or other nonconserving crop, because of drought, flood, or other natural disaster or condition beyond the control of the producer, the rate of payment on such portion shall be the larger of (A) the foregoing rate, or (B) one-third of the established price. If the Secretary determines that, because of such a disaster or condition, the total quantity of wheat (or of cotton, corn, grain sorghums, or barley planted in lieu of wheat) which the producers are able to harvest on any farm is less than 66⅔ percent of the farm acreage allotment times the projected yield of wheat (or of cotton, corn, grain sorghums, or barley planted in lieu of wheat) for the farm, the rate of payment for the deficiency in production below 100 percent shall be the larger of (A) the foregoing rate, or (B) one-third of the established price. The Secretary shall provide for the sharing of payments made under this subsection for any farm among the producers on the farm on a fair and equitable basis.

(Oct. 31, 1949, ch. 792, title I, § 107, as added Sept. 27, 1962, Pub. L. 87-703, title III, § 325(1), 76 Stat. 630, and amended Apr. 11, 1964, Pub. L. 88-297, title II, § 203, 78 Stat. 182; Nov. 3, 1965, Pub. L. 89-321, title V, § 506, 79 Stat. 1203; Oct. 11, 1968, Pub. L. 90-559, § 1(1), 82 Stat. 996; Nov. 30, 1970, Pub. L. 91-524, title IV, § 401, 84 Stat. 1362; Aug. 10, 1973, Pub. L. 93-86, § 1(8), 87 Stat. 224; Oct. 18, 1973, Pub. L. 93-125, § 1(b), 87 Stat. 450; Dec. 29, 1973, Pub. L. 93-228, § 1(a), 87 Stat. 944.)

AMENDMENTS

1973—Subsec. (a). Pub. L. 93-86, § 1(8)(A), substituted "$1.37 per bushel" for "$1.25 per bushel".

Subsec. (b). Pub. L. 93-86, § 1(8)(B), substituted "payments" for "certificates".

Subsec. (c). Pub. L. 93-228 substituted "(or of cotton, corn, grain sorghums, or barley planted in lieu of wheat)" for "(or other nonconserving crop planted instead of wheat)", in two instances.

Pub. L. 93-125 substituted "prevented from planting any portion" for "prevented from planting, any portion".

Pub. L. 93-86, § 1(8)(C), (D), added subsec. (c).

1970—Pub. L. 91-524 provided for loans on wheat at such levels not in excess of the parity price as the Secretary determines appropriate, taking into consideration competitive world prices of wheat, the feeding value of wheat in relation to feed grains, and the level at which price support is made available for feed grains, provided that, if a set-aside program is in effect, program benefits would be made available only to producers who comply with such set-aside program, and placed a floor on the loan of $1.25 per bushel.

1968—Subd. (2). Pub. L. 90-559 provided for a one year extension through 1970.

1965—Pub. L. 89-321 raised the wheat support level to 100 per centum of parity or as near to 100 per centum as the Secretary determines to be practicable, placed a floor of 100 per centum of parity for wheat accompanied by marketing certificates and $1.25 for wheat not so accompanied under the 1966 crop, guaranteed to cooperators for 1967 through 1969 crops a total average rate of return per bushel of not less than the total average rate of return per bushel made available to cooperators through loans and domestic marketing certificates for the 1966 crop where the diversion factor is not less than 10 per centum, and eliminated reference to classification as cooperators of producers who do not knowingly exceed the farm acreage allotment for wheat in cases where marketing quotas are not in effect.

1964—Subd. (1). Pub. L. 88-297 substituted "domestic certificates" for "marketing certificates".

Subd. (2). Pub. L. 88-297 added subd. (2). Former subd. (2) redesignated (3).

Subd. (3). Pub. L. 88-297 redesignated formed subd. (2) as (3), deleted introductory clause "if marketing quotas are in effect for wheat", and inserted "not in excess of 90 per centum of the parity price therefor." Former subd (3) redesignated (4).

Subd. (3). Pub. L. 88-297 redesignated former subd. (3) as (4). Former subd (4) redesignated (5).

Subd. (5). Pub. L. 88-297 redesignated former subd. (4) as (5) and added the introductory phrase "Effective with respect to crops planted for harvest in the

calendar year 1966 and any subsequent year,". Former subd. (5) redesignated (6).

Subd. (6). Pub. L. 88-297 redesignated former subd. (5) as (6), deleted introductory clause "if marketing quotas are in effect for the crop of wheat", deleted from clause (i)(A) "or any other commodity" following "wheat", substituted in clause (i)(B) "the farm acreage allotment for wheat on any other farm on which the producer shares in the production of wheat" for "the farm acreage allotment on any other farm for any commodity in which he has an interest as a producer", inserted the phrase "Effective with respect to crops planted for harvest in the calendar year 1966 and any subsequent year," preceding "if marketing quotas", and added provision for deeming a producer as not having exceeded a farm acreage allotment for wheat if the production on the acreage in excess of the farm acreage allotment is stored pursuant to section 1379c(b) of this title, but making the producer ineligible to receive price support on the wheat so stored.

EFFECTIVE AND TERMINATION DATES OF 1973 AMENDMENT

Section 1(8) of Pub. L. 93-86 provided in part that the amendment by section 1(8) of Pub. L. 93-86 is effective beginning with the 1974 crop.

EFFECTIVE AND TERMINATION DATES OF 1970 AMENDMENT

Section 401 of Pub. L. 91-524, as amended by section 1(8) of Pub. L. 93-86, provided in part that the amendment by Pub. L. 91-524 is effective only with respect to the 1971 through 1977 crops of wheat.

EFFECTIVE AND TERMINATION DATE OF 1965 AMENDMENT

Section 506 of Pub. L. 89-321, as amended by Pub. L. 90-559, § 1(1), Oct. 11, 1968, 82 Stat. 996, provided in part that the amendment of this section by Pub. L. 89-321 shall be effective only with respect to the 1966 through 1970 crops.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1379b, 1379c of this title.

SUBCHAPTER III—NONBASIC AGRICULTURAL COMMODITIES

§ 1446. Price support levels for designated nonbasic agricultural commodities

The Secretary is authorized and directed to make available (without regard to the provisions of sections 1447 to 1449 of this title) price support to producers for tung nuts, honey, and milk as follows:

(a) Repealed. Aug. 28, 1954, ch. 1041, title VII, § 709, 68 Stat. 912.

(b) The price of honey shall be supported through loans, purchases, or other operations at a level not in excess of 90 per centum nor less than 60 per centum of the parity price thereof; and the price of tung nuts for each crop of tung nuts through the 1976 crop shall be supported through loans, purchases, or other operations at a level not in excess of 90 per centum nor less than 60 per centum of the parity price therefor: *Provided*, That in any crop year through the 1976 crop year in which the Secretary determines that the domestic production of tung oil will be less than the anticipated domestic demand for such oil, the price of tung nuts shall be supported at not less than 65 per centum of the parity price therefor.

(c) The price of milk shall be supported at such level not in excess of 90 per centum nor less than 75 per centum of the parity price therefor as the Secretary determines necessary in order to assure an adequate supply of pure and wholesome milk to meet current needs, reflect changes in the cost of production, and assure a level of farm income adequate to maintain productive capacity sufficient to meet anticipated future needs. Notwithstanding the foregoing, effective for the period beginning with August 10, 1973, and ending on March 31, 1975, the price of milk shall be supported at not less than 80 per centum of the parity price therefor. Such price support shall be provided through purchases of milk and the products of milk.

(Oct. 31, 1949, ch. 792, title II, § 201, 63 Stat. 1052; Aug. 28, 1954, ch. 1041, title II, §§ 203(a), 204(b), title VII, § 709, 68 Stat. 899, 912; Apr. 2, 1956, ch. 159, § 1, 70 Stat. 87; July 20, 1956, ch. 661, 70 Stat. 596; Aug. 28, 1958, Pub. L. 85-835, title V, § 503, 72 Stat. 996; Sept. 16, 1960, Pub. L. 86-799, 74 Stat. 1054; Nov. 30, 1970, Pub. L. 91-524, title II, § 202, 84 Stat. 1361; Aug. 10, 1973, Pub. L. 93-86, § 1(3), 87 Stat. 222; Dec. 29, 1973, Pub. L. 93-225, 87 Stat. 942.)

AMENDMENTS

1973—Subsec. (b). Pub. L. 93-225 limited the tung nuts price support level provisions to tung nuts through the 1976 crop year. Prior provisions were applicable to tung nuts without any crop year restriction.

Subsec. (c). Pub. L. 93-86 inserted "of pure and wholesome milk to meet current needs, reflect changes in the cost of production, and assure a level of farm income adequate to maintain productive capacity sufficient to meet anticipated future needs" following "necessary in order to assure an adequate supply" and added provision that for the period August 10, 1973, through March 31, 1975, the price of milk shall be supported at not less than 80 per centum of the parity price therefor.

1970—Pub. L. 91-524 substituted "and milk" for "milk, butterfat, and products of milk and butterfat" in the provisions preceding subsec. (a) and, in subsec. (c), struck out provisions for butterfat price supports.

1960—Subsec. (c). Pub. L. 86-799 inserted the sentence "Notwithstanding the foregoing provisions, for the period beginning with September 16, 1960, and ending March 31, 1961, the price of milk for manufacturing purposes and the price of butterfat shall be supported at not less than $3.22 per hundredweight and 59.6 cents per pound, respectively."

1958—Subsec. (b). Pub. L. 85-835 required the minimum support level of tung oil to be 65 per centum of parity whenever domestic production is less than anticipated domestic demand.

1956—Subsec. (c). Act July 20, 1956, which eliminated from the last sentence the words "as are" preceding "devoted," and substituted "children" for "underprivileged children on a public welfare or charitable basis".

Act Apr. 2, 1956 increased the amount authorized for fiscal year 1956 from $50,000,000 to $60,000,000, to authorize $75,000,000 for each of the fiscal years 1957 and 1958, and permitted certain institutions devoted to the care and training of underprivileged children on a public welfare or charitable basis to share in the program.

1954—Opening par. Act Aug. 28, 1954, §§ 203(a), 709, removed Irish potatoes and wool (including mohair) from the price support list.

Subsec. (a). Act Aug. 28, 1954, § 709, deleted subsec. (a) relating to the support of wool and mohair.

Subsec. (b). Act Aug. 28, 1954, § 203(a), deleted reference to Irish potatoes.

Subsec. (c). Act Aug. 28, 1954, § 204(b), provided for the disposal of surplus dairy stocks owned by the CCC.

EFFECTIVE DATE OF 1973 AMENDMENT

Section 1(3)(B) of Pub. L. 93-86 provided in part that the amendment by section 1(3)(B) of Pub. L. 93-86 is effective April 1, 1974.

EFFECTIVE AND TERMINATION DATES OF 1970 AMENDMENT

Section 202 of Pub. L. 91-524 provided in part that the amendment by Pub. L. 91-524 is effective only with respect to the period beginning April 1, 1971, and ending March 31, 1974. Pub. L. 93-86, § 1(3)(A), Aug. 10, 1973, 87 Stat. 222, amended section 202 of Pub. L. 91-524 by striking out provision making amendments by section 202 effective for the period Apr. 1, 1971 to Mar. 31, 1974.

EFFECTIVE DATE OF 1954 AMENDMENT

Section 709 of act Aug. 28, 1954, provided in part that the amendments of this section by such section 709 shall be effective Apr. 1, 1955.

CONTINUATION OF SPECIAL MILK PROGRAM FOR CHILDREN

Pub. L. 85-478, July 1, 1958, 72 Stat. 276, as amended by Pub. L. 86-10, Apr. 3, 1959, 73 Stat. 15; Pub. L. 86-163, Aug. 18, 1959, 73 Stat. 363; Pub. L. 86-446, §§ 1, 2, Apr. 29, 1960, 74 Stat. 84; Pub. L. 87-67, June 30, 1961, 75 Stat. 147; Pub. L. 87-128, title IV, § 402, Aug. 8, 1961, 75 Stat. 319, authorized, for the fiscal years 1960-1962, the use of the funds of the Commodity Credit Corporation to increase the consumption of fluid milk by children (1) in nonprofit schools of high-school grade and under; and (2) in nonprofit nursery schools, child-care centers, settlement houses, summer camps, and similar nonprofit institutions devoted to the care and training of children. Appropriations were further authorized for fiscal years 1963-1967 for the same purposes.

STUDY OF PRODUCTION CONTROL AND PRICE SUPPORTS; REPORT OF CONGRESS

Section 204(f) of act Aug. 28, 1954 required the Secretary of Agriculture to make a study of the various methods of production control and of the various methods of price support which could be made applicable to milk and butterfat and their products, including programs to be operated and financed by dairymen; and to submit to Congress on or before the 3d day of January 1955 a detailed report thereof showing among other things the probable costs and effects of each type of operation studied and the legislation, if any, needed to put it into effect.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 612c, 1447 of this title.

§ 1446a. Dairy products; availability through Commodity Credit Corporation

As a means of increasing the utilization of dairy products (including for purposes of this section, milk), upon the certification by the Administrator of Veterans' Affairs or by the Secretary of the Army, acting for the military departments under the Department of Defense's Single Service Purchase Assignment for Subsistence, or their duly authorized representatives that the usual quantities of dairy products have been purchased in the normal channels of trade—

(a) Administrator of Veteran Affairs; needs; report to Congress

The Commodity Credit Corporation until December 31, 1977, shall make available to the Administrator of Veterans' Affairs at warehouses where dairy products are stored, such dairy products acquired under price-support programs as the Administrator certifies that he requires in order to provide butter and cheese and other dairy products as a part of the ration in hospitals under his jurisdiction. The Administrator shall report every six months to the Committees on Agriculture of the Senate and House of Representatives and the Secretary of Agriculture the amount of dairy products used under this subsection.

(b) Secretary of the Army; needs; report to Congress

The Commodity Credit Corporation until December 31, 1977, shall make available to the Secretary of the Army, at warehouses where dairy products are stored, such dairy products acquired under price-support programs as the Secretary of the Army or his duly authorized representative certifies can be utilized in order to provide additional butter and cheese and other dairy products as a part of the ration (1) of the Army, Navy, Air Force, or Coast Guard, (2) in hospitals under the jurisdiction of the Department of Defense, and (3) of cadets and midshipmen at, and other personnel assigned to, the United States Merchant Marine Academy. The Secretary of the Army shall report every six months to the Committees on Agriculture of the Senate and the House of Representatives and the Secretary of Agriculture the amount of dairy products used under this subsection.

(c) Costs

Dairy products made available under this section shall be made available without charge, except that the Secretary of the Army or the Administrator of Veterans' Affairs shall pay the Commodity Credit Corporation the costs of packaging incurred in making such products so available.

(d) Dairy products available

The obligation of the Commodity Credit Corporation to make dairy products available pursuant to the above shall be limited to dairy products acquired by the Corporation through price-support operations and not disposed of under provisions (1) and (2) of section 1431 of this title.

(Oct. 31, 1949, ch. 792, title II, § 202, as added Aug. 28, 1954, ch. 1041, title II, § 204(d), 68 Stat. 900, and amended Apr. 2, 1956, ch. 159, § 3, 70 Stat. 87; Aug. 28, 1958, Pub. L. 85-835, title V, § 504, 72 Stat. 996; Aug. 8, 1961, Pub. L. 87-128, title IV, § 403, 75 Stat. 319; June 25, 1962, Pub. L. 87-495, 76 Stat. 109; Aug. 31, 1964, Pub. L. 88-529, 78 Stat. 736; Nov. 16, 1967, Pub. L. 90-140, 81 Stat. 464; Nov. 30, 1970, Pub. L. 91-524, title II, § 203, 84 Stat. 1361; Aug. 10, 1973, Pub. L. 93-86, § 1(4), 87 Stat. 223.)

AMENDMENTS

1973—Subsecs. (a), (b). Pub. L. 93-86 extended the availability of dairy products from December 31, 1973 to December 31, 1977.

1970—Subsecs. (a), (b). Pub. L. 91-524 extended the availability of dairy products from Dec. 31, 1970 to Dec. 31, 1973.

1967—Subsecs. (a), (b). Pub. L. 90-140 extended the availability of dairy products from Dec. 31, 1967 to Dec. 31, 1970.

1964—Subsecs. (a), (b). Pub. L. 88-529 extended the availability of dairy products from Dec. 31, 1964 to Dec. 31, 1967.

1962—Subsec. (a). Pub. L. 87-495 changed the requirement of a monthly report to one every six months.

1961—Subsecs. (a), (b). Pub. L. 87-128 extended the availability of dairy products from Dec. 31, 1961, to Dec. 31, 1964.

1958—Subsec. (a). Pub. L. 85-835, § 504(a), extended the availability of dairy products from Dec. 31, 1958 to Dec. 31, 1961.

Subsec. (b). Pub. L. 85-835, § 504(b), extended the availability of dairy products from Dec. 31, 1958 to Dec. 31, 1961 and provided for the receipt of surplus dairy products by the Coast Guard and the United States Merchant Marine Academy.

1956—Subsecs. (a) and (b). Act Apr. 2, 1956, extended the availability of dairy products from Dec. 31, 1956, to Dec. 31, 1958.

§ 1446a-1. Use of Commodity Credit Corporation funds for purchases of dairy products requirements for school and other programs

The Secretary of Agriculture is hereby authorized to use funds of the Commodity Credit Corporation to purchase sufficient supplies of dairy products at market prices to meet the requirements of any programs for the schools (other than fluid milk in the case of schools), domestic relief distribution, community action, and such other programs as are authorized by law, when there are insufficient stocks of dairy products in the hands of Commodity Credit Corporation available for these purposes.

(Pub. L. 89-321, title VII, § 709, Nov. 3, 1965, 79 Stat. 1212; Pub. L. 89-808, § 3(b), Nov. 11, 1966, 80 Stat. 1538.)

CODIFICATION

Section was enacted as part of the Food and Agriculture Act of 1965, and not as part of the Agricultural Act of 1949 which is classified in part to this chapter. For complete classification of the 1949 Act to the Code, see Short Title note set out under section 1421 of this title and Tables volume.

AMENDMENTS

1966—Pub. L. 89-808 struck out "foreign distribution," following "community action,", thus deleting that part authorizing purchase of dairy products for foreign donation, such authority now being included in the general authority provided for by section 1721 et seq. of this title.

EFFECTIVE DATE OF 1966 AMENDMENT

Section 3(b) of Pub. L. 89-808 provided in part that the amendment of this section by Pub. L. 89-808 shall be effective Jan. 1, 1967.

COMMODITY DISTRIBUTION PROGRAM; PROHIBITION ON FURNISHING COMMODITIES TO SUMMER CAMPS

Prohibition on furnishing commodities under authority of this section to summer camps where number of adults participating in activities of camp exceeds one for each five children under 18 years of age participating in such activities, see section 4(b) of Pub. L. 93-86, Aug. 10, 1973, 87 Stat. 249, set out as a note under section 612c of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1777 of this title; title 42 sections 1758, 1761, 1766, 3045f.

§ 1446b. Policy with regard to dairy products

The production and use of abundant supplies of high quality milk and dairy products are essential to the health and general welfare of the Nation: a dependable domestic source of supply of these foods in the form of high grade dairy herds and modern, sanitary dairy equipment is important to the national defense; and an economically sound dairy industry affects beneficially the economy of the country as a whole. It is the policy of Congress to assure a stabilized annual production of adequate supplies of milk and dairy products; to promote the increased use of these essential foods; to improve the domestic source of supply of milk and butterfat by encouraging dairy farmers to develop efficient production units consisting of high-grade, disease-free cattle and modern sanitary equipment; and to stabilize the economy of dairy farmers at a level which will provide a fair return for their labor and investment when compared with the cost of things that farmers buy.

(Aug. 28, 1954, ch. 1041, title II, § 204(a), 68 Stat. 899.)

CODIFICATION

Section enacted as a part of the Agricultural Act of 1954, and not as a part of the Agricultural Act of 1949 which is classified in part to this chapter. For complete classification of the 1949 Act to the Code, see Short Title note set out under section 1421 of this title and Tables volume.

§ 1446c. Domestic disposal programs for dairy products

In order to prevent the accumulation of excessive inventories of dairy products the Secretary of Agriculture shall undertake domestic disposal programs under authorities granted in the Agricultural Adjustment Act of 1938 [7 U.S.C. 1281 et seq.] and the Agricultural Act of 1949, as amended [7 U.S.C. 1421 et seq.], or as otherwise authorized by law.

(Aug. 28, 1954, ch. 1041, title II, § 204(c), 68 Stat. 900.)

REFERENCES IN TEXT

The Agricultural Adjustment Act of 1938, referred to in text, which is classified generally to chapter 35 (§ 1281 et seq.) of this title, is act Feb. 16, 1938, ch. 30, 52 Stat. 31. For complete classification of this Act to the Code, see Tables volume.

The Agricultural Act of 1949, referred to in text, is act Oct. 31, 1949, ch. 792, 63 Stat. 1051. For classification of this Act to the Code, see Short Title note set out under section 1421 of this title and Tables volume.

CODIFICATION

Section enacted as a part of the Agricultural Act of 1954, and not as a part of the Agricultural Act of 1949 which is classified in part to this chapter. For complete classification of the 1949 Act to the Code, see Short Title note set out under section 1421 of this title and Tables volume.

§ 1446d. Price support levels for cottonseed and soybeans

Whenever the price of either cottonseed or soybeans is supported under this Act, the price of the other shall be supported at such level as the Secretary determines will cause them to compete on equal terms on the market.

(Oct. 31, 1949, ch. 792, title II, § 203, as added May 28, 1956, ch. 327, title VI, § 601(a), 70 Stat. 212.)

REFERENCES IN TEXT

This Act, referred to in text, is the Agricultural Act of 1949, act Oct. 31, 1949, ch. 792, 63 Stat. 1051. For classification of this Act to the Code, see Short Title note set out under section 1421 of this title and Tables volume.

EFFECTIVE DATE

Section 601(b) of act May 28, 1956, provided that this section shall take effect with the 1956 crop.

INAPPLICABILITY TO 1971 THROUGH 1977 CROPS

Pub. L. 91-524, title VI, § 608, Nov. 30, 1970, 84 Stat. 1378, as amended by Pub. L. 93-86, § 1(22), Aug. 10, 1973, 87 Stat. 235, provided that: "Section 203 of the Agricultural Act of 1949, as amended [this section] shall not be applicable to the 1971 through 1977 crops."

§ 1447. Price support levels for other nonbasic agricultural commodities

The Secretary is authorized to make available through loans, purchases, or other operations price support to producers for any nonbasic agricultural commodity not designated in section 1446 of this title at a level not in excess of 90 per centum of the parity price for the commodity.

(Oct. 31, 1949, ch. 792, title III, § 301, 63 Stat. 1053.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1446, 1449 of this title.

§ 1448. Price support levels for storable nonbasic agricultural commodities

Without restricting price support to those commodities for which a marketing quota or marketing agreement or order program is in effect, price support shall, insofar as feasible, be made available to producers of any storable nonbasic agricultural commodity for which such a program is in effect and who are complying with such program. The level of such support shall not be in excess of 90 per centum of the parity price of such commodity nor less than the level provided in the following table:

If the supply percentage as of the beginning of the marketing year is:	The level of support shall be not less than the following percentage of the parity price:
Not more than 102	90
More than 102 but not more than 104	89
More than 104 but not more than 106	88
More than 106 but not more than 108	87
More than 108 but not more than 110	86
More than 110 but not more than 112	85
More than 112 but not more than 114	84
More than 114 but not more than 116	83
More than 116 but not more than 118	82
More than 118 but not more than 120	81
More than 120 but not more than 122	80
More than 122 but not more than 124	79
More than 124 but not more than 126	78
More than 126 but not more than 128	77
More than 128 but not more than 130	76
More than 130	75

Provided, That the level of price support may be less than the minimum level provided in the foregoing table if the Secretary, after examination of the availability of funds for mandatory price support programs and consideration of the other factors specified in section 1421(b) of this title, determines that such lower level is desirable and proper.

(Oct. 31, 1949, ch. 792, title III, § 302, 63 Stat. 1053.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1446, 1449 of this title.

§ 1449. Determination of price support level

In determining the level of price support for any nonbasic agricultural commodity under sections 1447 to 1449 of this title, particular consideration shall be given to the levels at which the prices of competing agricultural commodities are being supported.

(Oct. 31, 1949, ch. 792, title III, § 303, 63 Stat. 1053.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1446 of this title.

§ 1450. Repealed. Aug. 28, 1954, ch. 1041, title II, § 203 (b), 68 Stat. 899

Section, acts Mar. 31, 1950, ch. 81, § 5, 64 Stat. 42; Jan. 30, 1954, ch. 2, § 5(a), 68 Stat. 7, provided that for the crop year of 1951 and thereafter, no price support would be available for Irish potatoes unless marketing quotas were in effect.

SUBCHAPTER IV—MEXICAN AGRICULTURAL WORKERS

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in title 42 section 410.

§§ 1461 to 1468. Omitted

CODIFICATION

Sections 1461 to 1468 of this title related to the recruiting of agricultural workers from Mexico and are omitted pursuant to the provisions of section 510 of act Oct. 31, 1949, as renumbered and amended, which provided that no workers would be available under such sections for employment after December 31, 1964.

Section 1461, act Oct. 31, 1949, ch. 792, title V, § 501, as added July 12, 1951, ch. 223, 65 Stat. 119, and amended Mar. 16, 1954, ch. 98, 68 Stat. 28, provided for powers, duties, and guaranties of Secretary of Labor.

Section 1462, act Oct. 31, 1949, ch. 792, title V, § 502, as added July 12, 1951, ch. 223, 65 Stat. 119, and amended Aug. 9, 1955, ch. 679, § 2, 69 Stat. 615; Oct. 3, 1961, Pub. L. 87-345, § 1, 75 Stat. 761, related to liabilities and guaranties of employers.

Section 1463, act Oct. 31, 1949, ch. 792, title V, § 503, as added July 12, 1951, ch. 223, 65 Stat. 120, and amended Aug. 9, 1955, ch. 679, § 3, 69 Stat. 615; Oct. 3, 1961, Pub. L. 87-345, § 2, 75 Stat. 761, related to certification of need for workers, consultation with employers and workers, and posting of information.

Section 1463a, act Oct. 31, 1949, ch. 792, title V, § 504, as added Oct. 3, 1961, Pub. L. 87-345, § 3, 75 Stat. 761, restricted duration and nature of employment.

Section 1464, act Oct. 31, 1949, ch. 792, title V, § 505, formerly § 504, as added July 12, 1951, ch. 223, 65 Stat. 120, and renumbered Oct. 3, 1961, Pub. L. 87-345, § 3, 75 Stat. 761, related to workers subject to immigration laws, dispensed with need of penalty bond, and provided for effect of use of "wetback" labor.

Section 1465, act Oct. 31, 1949, ch. 792, title V, § 506(c), formerly § 505(c), as added July 12, 1951, ch. 223, 65 Stat. 121, and renumbered Oct. 3, 1961, Pub. L. 87-345, § 3, 75 Stat. 761, provided for the head tax.

Section 1465a, act Oct. 31, 1949, ch. 792, title V, § 506(d), as added Oct. 3, 1961, Pub. L. 87-345, § 4, 75 Stat. 761, provided for illness or disability tax.

Section 1466, act Oct. 31, 1949, ch. 792, title V, § 507, formerly § 506, as added July 12, 1951, ch. 223, 65 Stat. 121, and renumbered Oct. 3, 1961, Pub. L. 87-345, § 3, 75 Stat. 761, related to utilization of Federal and State agencies by Secretary of Labor.

Section 1467, act Oct. 31, 1949, ch. 792, title V, § 598, formerly § 507, as added July 12, 1951, ch. 223, 65 Stat. 121, renumbered and amended Oct. 3, 1961, Pub. L. 87-345, §§ 3, 5, 75 Stat. 761, defined "agricultural employment" and "employer".

Section 1468, act Oct. 31, 1949, ch. 792, title V, § 509, formerly § 508, as added July 12, 1951, ch. 223, 65 Stat. 121, and renumbered Oct. 3, 1961, Pub. L. 87-345, § 3, 75 Stat. 761, related to importation of workers from other foreign countries.

CHAPTER 36—CROP INSURANCE

Sec.
1501. Short title; application of other laws.
1502. Declaration of purpose
1503. Federal Crop Insurance Corporation; creation; offices.
1504. Capital stock of Corporation; subscription by United States; appropriations.
1504a. Capitalization of Corporation.
1505. Board of directors, compensation; manager of Corporation.
1506. General powers of Corporation.
1506a, 1506b. Omitted.
1507. Personnel of Corporation.
(a) Appointment; civil service exemption; compensation.
(b) Application of employees' compensation law.
(c) Utilization of associations of producers; payment of expenses.
(d) Allotment of funds to Federal and State agencies.
(e) Utilization of producer cooperative associations.
1508. Agricultural commodity crop insurance.
(a) Insurance against loss authorized; reinsurance; terms and conditions; report to Congress.
(b) Premiums.
(c) Payment of claims; actions on claims.
(d) Purchase and sale of agricultural commodity.
(e) Additional premium and indemnity to cover cottonseed losses.
(f) Puerto Rican crop reinsurance; necessity.
1509. Exemption of indemnities from levy.
1510. Deposit and investment of funds; Federal Reserve banks as fiscal agents.
1511. Tax exemption.
1512. Corporation as fiscal agent of Government.
1513. Books of account and annual reports of Corporation.
1514. Crimes and offenses.
(a) to (e) Repealed.
(f) Application of laws on interest of members of Congress in contracts.
1515. Advisory committee; appointment and compensation.
1516. Authorization of appropriations; regulations.
1517. Separability of provisions.
1518. Agricultural commodity defined.
1519. Amendment or repeal.
1520. Persons under twenty-one years of age.

Chapter Referred to in Other Sections

This chapter is referred to in sections 1301, 1391 of this title; title 12 section 1150a.

§ 1501. Short title; application of other laws

This chapter may be cited as the "Federal Crop Insurance Act". Except as otherwise expressly provided the provisions in titles I to IV, inclusive, shall not apply with respect to this chapter, and the term "Act" wherever it appears in such titles shall not be construed to include this chapter.

(Feb. 16, 1938, ch. 30, title V, § 501, 52 Stat. 72.)

References in Text

"Titles I to IV, inclusive," and "such titles", referred to in the text, are references to titles I to IV of act Feb. 16, 1938, the Agricultural Adjustment Act of 1938. For classification of this Act to the Code, see Tables volume.

§ 1502. Declaration of purpose

It is the purpose of this chapter to promote the national welfare by improving the economic stability of agriculture through a sound system of crop insurance and providing the means for the research and experience helpful in devising and establishing such insurance.

(Feb. 16, 1938, ch. 30, title V, § 502, 52 Stat. 72; June 21, 1941, ch. 214, § 1, 55 Stat. 255; Aug. 1, 1947, ch. 440, § 4, 61 Stat. 719.)

Amendments

1947—Act Aug. 1, 1947, amended section generally by restating purpose of chapter to improve all agriculture by crop insurance instead of being limited only to wheat.

1941—Act June 21, 1941, substituted "crop" for "wheat-crop" and "agricultural commodities" for "wheat".

§ 1503. Federal Crop Insurance Corporation; creation; offices

To carry out the purposes of this chapter, there is hereby created as an agency of and within the Department of Agriculture a body corporate with the name "Federal Crop Insurance Corporation" (herein called the Corporation). The principal office of the Corporation shall be located in the District of Columbia, but there may be established agencies or branch offices elsewhere in the United States under rules and regulations prescribed by the Board of Directors.

(Feb. 16, 1938, ch. 30, title V, § 503, 52 Stat. 72.)

Transfer of Functions

Under the authority of Ex. Ord. No. 9577, June 29, 1945, the Secretary of Agriculture consolidated the administration of the program of the Federal Crop Insurance Corporation in the Production and Marketing Administration by Memorandum 1118, Aug. 18, 1945. 1946 Reorg. Plan No. 3, § 501, eff. July 16, 1946, 11 F.R. 7877, 60 Stat. 1100, set out in the Appendix to Title 5, Government Organization and Employees, transferred the administration of the program of the Federal Crop Insurance Corporation to the Secretary of Agriculture. In his letter to Congress the President stated that the purpose of this transfer was to permit the Secretary of Agriculture to continue the consolidation already effected in the Production and Marketing Administration.

Federal Crop Insurance Corporation consolidated with other agencies into Agricultural Conservation and Adjustment Administration for duration of war, see Ex. Ord. No. 9069.

Cross References

Financial control of Corporation, see section 841 et seq. of Title 31, Money and Finance.

§ 1504. Capital stock of Corporation; subscription by United States; authorization of appropriations

(a) The Corporation shall have a capital stock of $100,000,000 subscribed by the United States of America, payment for which shall, with the approval of the Secretary of Agriculture, be subject to call in whole or in part by the Board of Directors of the Corporation.

(b) There is authorized to be appropriated such sums as are necessary for the purpose of subscribing to the capital stock of the Corporation.

(c) Receipts for payments by the United States of America for or on account of such stock shall be issued by the Corporation to the Secretary of the Treasury and shall be evidence of the stock ownership by the United States of America.

(Feb. 16, 1938, ch. 30, title V, § 504, 52 Stat. 72; Aug. 25, 1949, ch. 512, §§ 4, 6, 63 Stat. 665.)

AMENDMENTS

1949—Subsec. (a). Act Aug. 25, 1949, § 4, struck out the second sentence relating to restoration of impairment of capital stock.

Subsec. (b). Act Aug. 25, 1949, § 6, authorized appropriations for subscribing to the corporation's capital stock in order to offset losses suffered prior to time program was placed on an experimental basis in 1947.

TRANSFER OF FUNCTIONS

Administration of the program of the Federal Crop Insurance Corporation was transferred to Secretary of Agriculture by 1946 Reorg. Plan No. 3, § 501, eff. July 16, 1946, 11 F.R. 7877, 60 Stat. 1100. See note under section 1503 of this title.

Wartime consolidation of Federal Crop Insurance Corporation into Agricultural Conservation and Adjustment Administration, see note under section 1503 of this title.

CANCELLATION OF OUTSTANDING RECEIPTS FOR STOCK IN EXCESS OF $27,000,000

Section 5 of act Aug. 25, 1949, provided that: "The Secretary of the Treasury is authorized and directed to cancel, without consideration, outstanding receipts for payments for or on account of the stock of the Corporation in excess of $27,000,000."

INSTITUTION OF EXPANDED PROGRAM; PAYMENT OF COST FOR FISCAL YEAR 1950

Section 11 of act Aug. 25, 1949, provided that: "The expanded program authorized herein [sections 1504, 1505, 1506, 1507 and 1508 of this title] shall be instituted beginning with the 1950 crop year, the additional cost for fiscal year 1950 to be financed, pending the appropriation of supplemental funds, from any appropriation available for operating and administrative expenses of the Corporation for such fiscal year."

§ 1504a. Capitalization of Corporation

The payment for capital stock in the Federal Crop Insurance Corporation shall be effected by transfer of funds on the books of the Treasury Department to the credit of the Corporation.

(June 27, 1940, ch. 437, title I, 54 Stat. 640.)

CODIFICATION

Section was not enacted as part of the "Federal Crop Insurance Act" which comprises this chapter.

TRANSFER OF FUNCTIONS

Administration of the program of the Federal Crop Insurance Corporation was transferred to Secretary of Agriculture by 1946 Reorg. Plan No. 3, § 501, eff. July 16, 1946, 11 F.R. 7877, 60 Stat. 1100. See note under section 1503 of this title.

Wartime consolidation of Federal Crop Insurance Corporation into Agricultural Conservation and Adjustment Administration, see note under section 1503 of this title.

§ 1505. Board of directors, compensation; manager of Corporation

(a) The management of the Corporation shall be vested in a Board of Directors (hereinafter called the "Board") subject to the general supervision of the Secretary of Agriculture. The Board shall consist of the manager of the Corporation, two other persons employed in the Department of Agriculture, and two persons experienced in the insurance business who are not otherwise employed by the Government. The Board shall be appointed by, and hold office at the pleasure of the Secretary of Agriculture, who shall not, himself, be a member of the Board.

(b) Vacancies in the Board so long as there shall be three members in office shall not impair the powers of the Board to execute the functions of the Corporation, and three of the members in office shall constitute a quorum for the transaction of the business of the Board.

(c) The Directors of the Corporation who are employed in the Department of Agriculture shall receive no additional compensation for their services as such Directors but may be allowed necessary traveling and subsistence expenses when engaged in business of the Corporation, outside of the District of Columbia. The members of the Board who are not employed by the Government shall be paid such compensation for their services as directors as the Secretary of Agriculture shall determine, but such compensation shall not exceed $50 per day each when actually employed and transportation expenses plus not to exceed $10 per diem in lieu of subsistence expenses when on business of the Corporation away from their homes or regular places of business.

(d) The manager of the Corporation shall be its chief executive officer, with such power and authority as may be conferred upon him by the Board. He shall be appointed by, and hold office at the pleasure of, the Secretary of Agriculture.

(Feb. 16, 1938, ch. 30, title V, § 505, 52 Stat. 72; Aug. 1, 1947, ch. 440, § 8, 61 Stat. 719; Aug. 25, 1949, ch. 512, § 7, 63 Stat. 665.)

AMENDMENTS

1949—Subsec. (c). Act Aug. 25, 1949, reduced compensation of members of Board of Directors who are not Government employees from "not to exceed $100 per day" to "not to exceed $50 per day", and changed from "subsistence expenses" to "transportation expenses and not to exceed $10 per diem".

1947—Act Aug. 1, 1947, amended section generally and, among other changes, increased membership of Board from three to five, provided for two members with insurance experience, not Government employees, increased from two to three the number of members necessary to carry on functions and to constitute a quorum, provided for compensation and expenses of Board members not otherwise Government employed, and for appointment of manager of corporation by the Secretary of Agriculture instead of being selected by the Board.

TRANSFER OF FUNCTIONS

Administration of the program of the Federal Crop Insurance Corporation was transferred to Secretary of Agriculture by 1946 Reorg. Plan No. 3, § 501, eff. July 16, 1946, 11 F.R. 7877, 60 Stat. 1100. See note under section 1503 of this title.

Wartime consolidation of Federal Crop Insurance Corporation into Agricultural Conservation and Adjustment Administration, see note under section 1503 of this title.

§ 1506. General powers of Corporation

The Corporation—

(a) shall have succession in its corporate name;

(b) may adopt, alter, and use a corporate seal, which shall be judicially noticed;

(c) may make contracts and purchase or lease and hold such real and personal property as it deems necessary or convenient in the transaction of its business, and may dispose of such property held by it upon such terms as it deems appropriate;

(d) Subject to the provisions of section 1508 (c) of this title, may sue and be sued in its corporate name in any court of record of a State having general jurisdiction, or in any United States district court, and jurisdiction is conferred upon such district court to determine such controversies without regard to the amount in controversy: *Provided,* That no attachment, injunction, garnishment, or other similar process, mesne or final, shall be issued against the Corporation or its property;

(e) may adopt, amend, and repeal bylaws, rules, and regulations governing the manner in which its business may be conducted and the powers granted to it by law may be exercised and enjoyed;

(f) shall be entitled to the free use of the United States mails in the same manner as the other executive agencies of the Government;

(g) with the consent of any board, commission, independent establishment, or executive department of the Government, including any field service thereof, may avail itself of the use of information, services, facilities, officials, and employees thereof in carrying out the provisions of this chapter;

(h) may conduct researches, surveys, and investigations relating to crop insurance and shall assemble data for the purpose of establishing sound actuarial bases for insurance on agricultural commodities;

(i) shall determine the character and necessity for its expenditures under this chapter and the manner in which they shall be incurred, allowed, and paid, without regard to the provisions of any other laws governing the expenditure of public funds and such determinations shall be final and conclusive upon all other officers of the Government; and

(j) shall have such powers as may be necessary or appropriate for the exercise of the powers herein specifically conferred upon the Corporation and all such incidental powers as are customary in corporations generally.

(Feb. 16, 1938, ch. 30, title V, § 506, 52 Stat. 73; June 21, 1941, ch. 214, § 2, 55 Stat. 255; Aug. 1, 1947, ch. 440, § 7, 61 Stat. 719; Aug. 25, 1949, ch. 512, § 8, 63 Stat. 665.)

AMENDMENTS

1949—Subsec. (h). Act Aug. 25, 1949, removed obsolete language and included authority for a study of the possibility of developing some type of livestock insurance.

1947—Subsec. (d). Act Aug. 1, 1947, provided for suits in State courts of general jurisdiction or in United States district courts regardless of amount in controversy.

1941—Subsec. (h). Act June 21, 1941, substituted "and preparatory to the application of the chapter to other basic commodities when so provided by law, shall assemble data relative to field corn, for the purpose of establishing a satisfactory actuarial basis for such commodity" for "for wheat and other agricultural commodities."

TRANSFER OF FUNCTIONS

Administration of the program of the Federal Crop Insurance Corporation was transferred to Secretary of Agriculture by 1946 Reorg. Plan No. 3, § 501, eff. July 16, 1946, 11 F.R. 7877, 60 Stat. 1100. See note under section 1503 of this title.

Wartime consolidation of Federal Crop Insurance Corporation into Agricultural Conservation and Adjustment Administration, see note under section 1503 of this title.

CROSS REFERENCES

Amount in controversy immaterial in action arising under Act regulating commerce, see section 1337 of Title 28, Judiciary and Judicial Procedure.

Amount in controversy required in action involving federal question, see section 1331 of Title 28.

Jurisdiction of district court of action by corporation organized under federal law, see section 1349 of Title 28.

§§ 1506a, 1506b. Omitted

CODIFICATION

Section 1506a, act July 30, 1947, ch. 356, title II, § 202, 61 Stat. 550, which related to authority of Federal Crop Insurance Corporation to make expenditures, was from the Department of Agriculture Appropriation Act, 1948, and was not repeated in subsequent appropriation acts.

Section 1506b, acts June 29, 1954, ch. 409, title II, § 201, 68 Stat. 317; May 23, 1955, ch. 43, title II, § 201, 69 Stat. 60; June 4, 1956, ch. 355, title II, § 201, 70 Stat. 238, which provided that crop inspection costs and loss adjustments could be considered as nonadministrative or nonoperating expenses, was from the Department of Agriculture and Farm Credit Administration Appropriation Acts for fiscal years 1955–57, and was not repeated in subsequent appropriation acts.

§ 1507. Personnel of Corporation

(a) Appointment; civil service exemption; compensation

The Secretary shall appoint such officers and employees as may be necessary for the transaction of the business of the Corporation pursuant to civil-service laws and regulations, fix their compensation in accordance with the provisions of chapter 51 and subchapter III of chapter 53 of title 5, define their authority and duties, and delegate to them such of the powers vested in the Corporation as he may determine: *Provided,* That personnel paid by the hour, day, or month when actually employed, and county crop insurance committeemen may be appointed without regard to civil-service laws and regulations.

(b) Application of employees' compensation law

Insofar as applicable, the benefits of subchapter I of chapter 81 of title 5, shall extend

to persons given employment under the provisions of this chapter, including the employees of the committees and associations referred to in subsection (c) of this section and the members of such committees.

(c) Utilization of associations of producers; payment of expenses

The Board may establish or utilize committees or associations of producers in the administration of this chapter and make payments to such committees or associations to cover the estimated administrative expenses to be incurred by them in cooperating in carrying out this chapter and may provide that all or part of such estimated expenses may be included in the insurance premiums provided for in this chapter.

(d) Allotment of funds to Federal and State agencies

The Secretary of Agriculture may allot to bureaus and offices of the Department of Agriculture or transfer to such other agencies of the State and Federal Governments as he may request to assist in carrying out this chapter any funds made available pursuant to the provisions of section 1516 of this title, except that employees or agencies responsible for administering this chapter in each county shall be selected and designated by the Corporation and shall be responsible directly to the Corporation without the intervention of any intermediate office or agency.

(e) Utilization of producer cooperative associations

In carrying out the provisions of this chapter the Board may, in its discretion, utilize producer-owned and producer-controlled cooperative associations.

(Feb. 16, 1938, ch. 30, title V, § 507, 52 Stat. 73; Aug. 1, 1947, ch. 440, § 6, 61 Stat. 719; Aug. 25, 1949, ch. 512, § 10, 63 Stat. 665; Oct. 28, 1949, ch. 782, title XI, § 1106(a), 63 Stat. 972; June 6, 1972, Pub. L. 92-310, title II, § 221(b), 86 Stat. 205.)

REFERENCES IN TEXT

The civil-service laws, referred to in subsec. (a), are set forth in Title 5, Government Organization and Employees. See, particularly section 3301 et seq. of that title.

In subsec. (a), "chapter 51 and subchapter III of chapter 53 of title 5" was substituted for "the Classification Act of 1949" on authority of section 7(b) of Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 631, section 1 of which enacted Title 5, Government Organization and Employees.

Provisions that authorized personnel paid by the hour, day, or month when actually employed, and county crop insurance committeemen to have their compensation fixed without regard to "the Classification Act of 1923, as amended" were omitted as obsolete. Sections 1202 and 1204 of the Classification Act of 1949, 63 Stat. 972, 973 repealed the 1923 Act and all laws or parts of laws inconsistent with the 1949 Act. While section 1106(a) of the 1949 Act provided that references in other laws to the 1923 Act should be held and considered to mean the 1949 Act it did not have the effect of continuing the exceptions contained in this subsection because of section 1106(b) which provided that the application of the 1949 Act to any position, officer, or employee shall not be affected by section 1106(a). The Classification Act of 1949 was repealed by Act Sept. 6, 1966, Pub. L. 89-554, § 8(a), 80 Stat. 632 (of which section 1 revised and enacted Title 5, U.S.C., into law). Section 5102 of Title 5, now contains the applicability provisions of the 1949 Act, and section 5103 of Title 5 authorizes the Civil Service Commission to determine the applicability to specific positions and employees.

In subsec. (b), reference to "subchapter I of chapter 81 of title 5" was substituted for "the Act entitled 'An Act to provide compensation for employees of the United States suffering injuries while in the performance of their duties, and for other purposes', approved September 7, 1916, as amended" on authority of section 7(b) of Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 631, the first section of which enacted Title 5, Government Organization and Employees.

AMENDMENTS

1972—Subsec. (a). Pub. L. 92-310 eliminated provisions which empowered the Secretary to require bonds of officers and employees.

1949—Act Oct. 28, 1949, substituted the "Classification Act of 1949" for the "Classification Act of 1923".

Act Aug. 25, 1949, added requirement that officers and employees be appointed subject to the civil service laws and regulations, and exempted personnel paid by hour, day, or month when employed, and county crop-insurance committeemen from civil-service laws and regulations or the Classification Act of 1923.

1947—Act Aug. 1, 1947, provided for the selection and designation of county employees and agencies and their direct responsibility.

REPEALS

Act Oct. 29, 1949, ch. 782, § 782, § 1106(a), 63 Stat. 972, set out in the credit of this section, was repealed (subject to a savings clause) by Pub. L. 89-554, Sept. 6, 1966, § 8, 80 Stat. 632, 655.

TRANSFER OF FUNCTIONS

Administration of the program of the Federal Crop Insurance Corporation was transferred to Secretary of Agriculture by 1946 Reorg. Plan No. 3, § 501, eff. July 16, 1946, 11 F.R. 7877, 60 Stat. 1100. See note under section 1503 of this title.

Wartime consolidation of Federal Crop Insurance Corporation into Agricultural Conservation and Adjustment Administration, see note under section 1503 of this title.

§ 1508. Agricultural commodity crop insurance

To carry out the purposes of this chapter the Corporation is authorized and empowered—

(a) Insurance against loss authorized; reinsurance; terms and conditions; report to Congress

Commencing with crops planted for harvest in 1948, for the purpose of determining the most practical plan, terms, and conditions of insurance for agricultural commodities, if sufficient actuarial data are available, as determined by the Board, to insure, or to reinsure insurers of, producers of such agricultural commodities under any plan or plans of insurance determined by the Board to be adapted to any such commodity. Such insurance shall be against loss of the insured commodity due to unavoidable causes, including drought, flood, hail, wind, frost, winterkill, lightning, fire, excessive rain, snow, wildlife, hurricane, tornado, insect infestation, plant disease, and such other unavoidable causes as may be determined by the Board: *Provided,* That, except in the case of tobacco, such insurance shall not extend beyond the period the insured commodity is in the field. In 1948 insurance shall be limited to not more than seven agricultural commodities (including wheat, cotton, flax, corn, and tobacco) and to not more than three additional agricultural commodities in each year thereafter: *Provided,* That other agricultural commodities

may be included in multiple crop insurance (insurance on two or more agricultural commodities under one contract with a producer). Beginning with crops planted for harvest in 1954, crop insurance may be offered each year in not to exceed 150 counties in addition to the number of counties in which such insurance was offered in the preceding year. In determining the new counties in which such insurance is to be offered and the commodities to be insured, the Corporation shall take into consideration the demand of farmers for such insurance, the extent to which such insurance is available to commercial producers of insured commodities, and the anticipated risk of loss to the Corporation. Reinsurance for private insurance companies shall be limited to not to exceed twenty counties which may be selected without regard to the other county limitations specified herein. Any insurance offered against loss in yield shall not cover in excess of 75 per centum of the recorded or appraised average yield of the commodity on the insured farm for a representative period subject to such adjustments as the Board may prescribe to the end that the average yields fixed for farms in the same area, which are subject to the same conditions, may be fair and just: *Provided,* That if 75 per centum of the average yield represents generally more protection than the investment in the crop in any area, taking into consideration recognized farming practices, the Board shall reduce such maximum percentage so as more nearly to reflect the investment in the crop in such area. Insurance provided under this subsection shall not cover losses due to the neglect or malfeasance of the producer, or to the failure of the producer to reseed to the same crop in areas and under circumstances where it is customary to so reseed, or to the failure of the producer to follow established good farming practices. Counties selected by the Board shall be representative of the several areas where the agricultural commodity insured is normally produced. The Board may limit or refuse insurance in any county or area, or on any farm, on the basis of the insurance risk involved. Insurance shall not be provided on any agricultural commodity in any county in which the Board determines that the income from such commodity constitutes an unimportant part of the total agricultural income of the county, except that insurance may be provided for producers on farms situated in a local producing area bordering on a county with a crop-insurance program. The Corporation shall report annually to the Congress the results of its operations as to each commodity insured.

(b) Premiums

To fix adequate premiums for insurance in the agricultural commodity or in cash, at such rates as the Board deems sufficient to cover claims for crop losses on such insurance and to establish as expeditiously as possible a reasonable reserve against unforeseen losses: *Provided,* That such premiums may be established on the basis of the parity or comparable price for the commodity as determined and published by the Secretary of Agriculture, or on the basis of an average market price designated by the Board. Such premiums shall be collected at such time or times, or shall be secured in such manner, as the Board may determine.

(c) Payment of claims; actions on claims

To adjust and pay claims for losses in the agricultural commodity or in cash, under rules prescribed by the Board: *Provided,* That indemnities may be determined on the same price basis as premiums are determined for the crop with respect to which such indemnities are paid. The Corporation shall provide for the posting annually in each county at the county courthouse of a list of indemnities paid for losses on farms in such county. In the event that any claim for indemnity under the provisions of this chapter is denied by the Corporation, an action on such claim may be brought against the Corporation in the United States district court, or in any court of record of the State having general jurisdiction, sitting in the district or county in which the insured farm is located, and jurisdiction is conferred upon such district courts to determine such controversies without regard to the amount in controversy: *Provided,* That no suit on such claim shall be allowed under this section unless the same shall have been brought within one year after the date when notice of denial of the claim is mailed to and received by the claimant.

(d) Purchase and sale of agricultural commodity

From time to time, in such manner and through such agencies as the Board may determine, to purchase, handle, store, insure, provide storage facilities for, and sell the agricultural commodity, and pay any expenses incidental thereto, it being the intent of this provision, however, that, insofar as practicable, the Corporation shall purchase the agricultural commodity only at the rate and to a total amount equal to the payment of premiums in cash by farmers or to replace promptly the agricultural commodity sold to prevent deterioration; and shall sell the agricultural commodity only to the extent necessary to cover payments of indemnities and to prevent deterioration: *Provided, however,* That nothing in this section shall prevent prompt offset purchases and sales of the agricultural commodity for convenience in handling. Nothing in this section shall prevent the Corporation from accepting, for the payment of premiums, notes payable in the commodity insured, or the cash equivalent, upon such security as may be determined pursuant to subsection (b) of this section, and from purchasing the quantity of the commodity represented by any of such notes not paid at maturity. The restriction on the purchase and sale of the agricultural commodity provided in this section shall be made a part of any crop insurance agreement made under this chapter. Notwithstanding any provision of this chapter, there shall be no limitation upon the legal or equitable remedies available to the insured to enforce against the Corporation the foregoing restriction with respect to purchases and sales of the agricultural commodity.

(e) Additional premium and indemnity to cover cottonseed losses

In connection with insurance upon yields of cotton, to include provision for additional premium and indemnity in terms of lint cotton to cover loss of cottonseed, such additional premi-

um and indemnity to be determined on the basis of the average relationship between returns from cottonseed and returns from lint cotton for the same period of years as that used for computing yields and premium rates.

(f) Puerto Rican crop reinsurance; necessity

Notwithstanding any other provision of this chapter, the corporation is hereby authorized, under such terms and conditions as it deems consistent with sound reinsurance principles, to provide reinsurance on any crop or plantation insurance provided in Puerto Rico by a duly authorized agency of the Commonwealth of Puerto Rico: *Provided,* That, no application for reinsurance authorized herein shall be approved, unless the corporation shall have determined that the reinsurance deemed necessary is not available from recognized private sources at reasonable cost.

(Feb. 16, 1938, ch. 30, title V, § 508, 52 Stat. 74; June 22, 1938, ch. 563, 52 Stat. 835; June 21, 1941, ch. 214, §§ 3–7, 10, 55 Stat. 255, 256; Dec. 23, 1944, ch. 713, §§ 1–3, 58 Stat. 918, 919; Aug. 1, 1947, ch. 440, §§ 1–3, 61 Stat. 718; Aug. 25, 1949, ch. 512, §§ 1–3, 63 Stat. 663; Aug. 13, 1953, ch. 431, 67 Stat. 575; July 23, 1957, Pub. L. 85–111, 71 Stat. 309; Aug. 4, 1959, Pub. L. 86–131, 73 Stat. 278; Sept. 12, 1964, Pub. L. 88–589, 78 Stat. 933.)

AMENDMENTS

, 1964—Subsec. (a). Pub. L. 88–589 increased from 100 to 150 the number of counties into which the Federal crop insurance program may be extended.

1959—Subsec. (a). Pub. L. 86–131 deleted provision prohibiting Federal crop insurance in a county unless two hundred farms or one third of the farms normally producing the commodity apply for such insurance, excluding farms refused insurance on the basis of risk involved.

1957—Subsec. (f). Pub. L. 85–111 added subsec. (f).

1953—Subsec. (a). Act Aug. 13, 1953, authorized the extension of the Federal crop insurance program into an additional 100 counties, eliminated the commodity formula basis on which this expansion may take place, and provided an exception to the strict county limitation by providing that producers on farms situated in a local producing area bordering on a county with a crop insurance program may be included in that county's program.

1949—Subsec. (a). Act Aug. 25, 1949, § 1, provided for an annual increase in the number of counties in which the insurance now offered by the Corporation can be issued.

Subsec. (b). Act Aug. 25, 1949, § 2, eliminated the provision under which the Corporation's administrative expenses are restricted, after the crop year 1949, to a sum equivalent to 25 percent of the premiums collected in the preceding year.

Subsec. (c). Act Aug. 25, 1949, § 3, eliminated provision which required the prorating of losses beginning with crop year 1950.

1947—Subsec. (a). Act Aug. 1, 1947, § 1, amended subsec. (a) generally, and among other changes, provided for crop insurance, commencing with crops planted for harvest in 1948, made provision for reinsurance, enumerated specific crops insurable in 1948, provided for additional crops in subsequent years, limited number of counties in which certain crops were insurable, increased required number of applications in any one county from fifty to two hundred, and authorized Board to refuse insurance in any county where agricultural commodity to be insured constitutes an unimportant part of total agricultural income.

Subsec. (b). Act Aug. 1, 1947, § 2, inserted proviso relating to basis for premiums.

Subsec. (c). Act Aug. 1, 1947, § 3, inserted first proviso relating to determination of price basis for indemnities.

1944—Subsec. (a). Act Dec. 23, 1944, § 1, amended subsec. (a) generally to provide insurance against loss not only for wheat and cotton crops but also for flax, corn, oats, etc.

Subsec. (b). Act Dec. 23, 1944, § 2, provided for the establishment of such rates as would cover crop losses and build up a reasonable reserve, and added proviso.

Subsec. (c). Act Dec. 23, 1944, § 3, inserted first proviso, and inserted "and received" following "mailed to" in last proviso.

1941—Subsec. (a). Act June 21, 1941, §§ 3 to 5, struck out comma following "1939" and inserted "and with the cotton crop planted for harvest in 1942", and substituted "producers of the agricultural commodity against loss in yields of the agricultural commodity" for "producers of wheat against loss in yields of wheat" in the first sentence, and "the agricultural commodity" for "wheat" in the third sentence, respectively.

Subsecs. (b), (c). Act June 21, 1941, § 6, substituted "the agricultural commodity" for "wheat" wherever appearing.

Subsec. (d). Act June 21, 1941, §§ 6, 10, substituted "the agricultural commodity" for "wheat" wherever appearing, and inserting the second sentence, respectively.

Subsec. (e). Act June 21, 1941, § 7, added subsec. (e).

1938—Subsec. (a). Act June 22, 1938, added second proviso in first sentence.

TRANSFER OF FUNCTIONS

Administration of the program of the Federal Crop Insurance Corporation was transferred to Secretary of Agriculture by 1946 Reorg. Plan No. 3, § 501, eff. July 16, 1946, 11 F.R. 7877, 60 Stat. 1100. See note under section 1503 of this title.

Wartime consolidation of Federal Crop Insurance Corporation into Agricultural Conservation and Adjustment Administration, see note under section 1503 of this title.

VALIDITY AND TERMINATION OF PRIOR INSURANCE CONTRACTS

Section 5 of Act Aug. 1, 1947, provided: "Nothing in this Act [amendments to sections 1502, 1505 (a to d), 1506(d), 1507(d), and 1508 (a to c) of this title] shall be construed to affect the validity of any insurance contract entered into prior to the enactment of this Act [Aug. 1, 1947] insofar as such contract covers the 1947 crop year. Any such contract which purports to cover a crop in the 1948 or any subsequent crop year in any county in which insurance on such crop will be discontinued pursuant to this Act [amendments to such sections] is hereby terminated at the end of the 1947 crop year."

CROSS REFERENCES

Amount in controversy immaterial in action arising under Act regulating commerce, see section 1337 of Title 28, Judiciary and Judicial Procedure.

Amount in controversy required in order involving federal question, see section 1331 of Title 28.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1506, 1518 of this title.

§ 1509. Exemption of indemnities from levy

Claims for indemnities under this chapter shall not be liable to attachment, levy, garnishment, or any other legal process before payment to the insured or to deduction on account of the indebtedness of the insured or his estate to the United States except claims of the United States or the Corporation arising under this chapter.

(Feb. 16, 1938, ch. 30, title V, § 509, 52 Stat. 75.)

TRANSFER OF FUNCTIONS

Administration of the program of the Federal Crop Insurance Corporation was transferred to Secretary of Agriculture by 1946 Reorg. Plan No. 3, § 501, eff. July 16, 1946, 11 F.R. 7877, 60 Stat. 1100. See note under section 1503 of this title.

Wartime consolidation of Federal Crop Insurance Corporation into Agricultural Conservation and Adjustment Administration, see note under section 1503 of this title.

FEDERAL RULES OF CIVIL PROCEDURE

Attachment and garnishment, see rules 64 and 70, Title 28, Appendix, Judiciary and Judicial Procedure.

§ 1510. Deposit and investment of funds; Federal Reserve banks as fiscal agents

All money of the Corporation not otherwise employed may be deposited with the Treasurer of the United States or in any bank approved by the Secretary of the Treasury, subject to withdrawal by the Corporation at any time, or with the approval of the Secretary of the Treasury may be invested in obligations of the United States or in obligations guaranteed as to principal and interest by the United States. Subject to the approval of the Secretary of the Treasury, the Federal Reserve banks are hereby authorized and directed to act as depositories, custodians, and fiscal agents for the Corporation in the performance of its powers conferred by this chapter.

(Feb. 16, 1938, ch. 30, title V, § 510, 52 Stat. 75.)

TRANSFER OF FUNCTIONS

Administration of the program of the Federal Crop Insurance Corporation was transferred to Secretary of Agriculture by 1946 Reorg. Plan No. 3, § 501, eff. July 16, 1946, 11 F.R. 7877, 60 Stat. 1100. See note under section 1503 of this title.

Wartime consolidation of Federal Crop Insurance Corporation into Agricultural Conservation and Adjustment Administration, see note under section 1503 of this title.

§ 1511. Tax exemption

The Corporation, including its franchise, its capital, reserves, and surplus, and its income and property, shall be exempt from all taxation on or after February 16, 1938, imposed by the United States or by any Territory, dependency, or possession thereof, or by any State, county, municipality, or local taxing authority.

(Feb. 16, 1938, ch. 30, title V, § 511, 52 Stat. 75.)

TRANSFER OF FUNCTIONS

Administration of the program of the Federal Crop Insurance Corporation was transferred to Secretary of Agriculture by 1946 Reorg. Plan No. 3, § 501, eff. July 16, 1946, 11 F.R. 7877, 60 Stat. 1100. See note under section 1503 of this title.

Wartime consolidation of Federal Crop Insurance Corporation into Agricultural Conservation and Adjustment Administration, see note under section 1503 of this title.

§ 1512. Corporation as fiscal agent of Government

When designated for that purpose by the Secretary of the Treasury, the Corporation shall be a depository of public money, except receipts from customs, under such regulations as may be prescribed by said Secretary; and it may also be employed as a financial agent of the Government; and it shall perform all such reasonable duties, as a depository of public money and financial agent of the Government, as may be required of it.

(Feb. 16, 1938, ch. 30, title V, § 512, 52 Stat. 75.)

TRANSFER OF FUNCTIONS

Administration of the program of the Federal Crop Insurance Corporation was transferred to Secretary of Agriculture by 1946 Reorg. Plan No. 3, § 501, eff. July 16, 1946, 11 F.R. 7877, 60 Stat. 1100. See note under section 1503 of this title.

Wartime consolidation of Federal Crop Insurance Corporation into Agricultural Conservation and Adjustment Administration, see note under section 1503 of this title.

§ 1513. Books of account and annual reports of Corporation

The Corporation shall at all times maintain complete and accurate books of accounts and shall file annually with the Secretary of Agriculture a complete report as to the business of the Corporation.

(Feb. 16, 1938, ch. 30, title V, § 513, 52 Stat. 76; Jan. 2, 1975, Pub. L. 93-604, title VI, § 603, 88 Stat. 1963.)

AMENDMENTS

1975—Pub. L. 93-604 struck out provisions that the financial transactions of the Corporation shall be audited at least once each year by the General Accounting Office for the sole purpose of making a report to Congress, together with such recommendations as the Comptroller General of the United States may deem advisable and the proviso that such report shall not be made until the Corporation shall have had reasonable opportunity to examine the exceptions and criticisms of the Comptroller General or the General Accounting Office, to point out errors therein, explain or answer the same, and to file a statement which shall be submitted by the Comptroller General with his report.

TRANSFER OF FUNCTIONS

Administration of the program of the Federal Crop Insurance Corporation was transferred to Secretary of Agriculture by 1946 Reorg. Plan No. 3, § 501, eff. July 16, 1946, 11 F.R. 7877, 60 Stat. 1100. See note under section 1503 of this title.

Wartime consolidation of Federal Insurance Corporation into Agricultural Conservation and Adjustment Administration, see note under section 1503 of this title.

AUDIT OF GOVERNMENT CORPORATIONS

Section 301(c) of act Dec. 6, 1945, ch. 557, title III, 59 Stat. 601, which is classified to section 866(c) of Title 31, Money and Finance, provides that the audit provided in sections 850 and 857 of Title 31, shall be in lieu of any audit of the financial transactions of any Government Corporation required to be made by the General Accounting Office for the purpose of a report to the Congress or to the President under any existing law.

§ 1514. Crimes and offenses

(a) to (e). Repealed. June 25, 1948, ch. 645, § 21, 62 Stat. 862, eff. Sept. 1, 1948

(f) Application of laws on interest of members of Congress in contracts

The provisions of section 22 of title 41 shall not apply to any crop insurance agreements made under this chapter.

(Feb. 16, 1938, ch. 30, title V, § 514, 52 Stat. 76; June 25, 1948, ch. 645, §§ 4, 21, 62 Stat. 859, 862.)

AMENDMENTS

1948—Subsecs. (a) to (e). Act June 25, 1948, § 21, repealed provisions relating to crimes and offenses which are now covered by sections 371, 433, 657, 658, 1006, 1014, and former section 1093 of Title 18, Crimes and Criminal Procedure.

Subsec. (f). Act June 25, 1948, § 4, deleted provisions relating to former sections 202 to 207 of Title 18, which are now covered by sections 202, 216, 431 to 433 of Title 18, Crimes and Criminal Procedure.

EFFECTIVE DATE OF 1948 AMENDMENT

Section 20 of act June 25, 1948, ch. 645, 62 Stat. 862, provided that the amendment of this section shall be effective Sept. 1, 1948.

TRANSFER OF FUNCTIONS

Administration of the program of the Federal Crop Insurance Corporation was transferred to Secretary of Agriculture by 1946 Reorg. Plan No. 3, § 501, eff. July 16, 1946, 11 F.R. 7877, 60 Stat. 1100. See note under section 1503 of this title.

Wartime consolidation of Federal Crop Insurance Corporation into Agricultural Conservation and Adjustment Administration, see note under section 1503 of this title.

§ 1515. Advisory committee; appointment and compensation

The Secretary of Agriculture is authorized to appoint from time to time, an advisory committee, consisting of not more than five members experienced in agricultural pursuits and appointed with due consideration to their geographical distribution, to advise the Corporation with respect to carrying out the purposes of this chapter. The compensation of the members of such committee shall be determined by the Board but shall not exceed $10 per day each while actually employed and actual necessary traveling and subsistence expenses, or a per diem allowance in lieu thereof.

(Feb. 16, 1938, ch. 30, title V, § 515, 52 Stat. 77.)

TRANSFER OF FUNCTIONS

Administration of the program of the Federal Crop Insurance Corporation was transferred to Secretary of Agriculture by 1946 Reorg. Plan No. 3, § 501, eff. July 16, 1946, 11 F.R. 7877, 60 Stat. 1100. See note under section 1503 of this title.

Wartime consolidation of Federal Insurance Corporation into Agricultural Conservation and Adjustment Administration, see note under section 1503 of this title.

TERMINATION OF ADVISORY COMMITTEES

Advisory Committees in existence on Jan. 5, 1973, to terminate not later than the expiration of the two-year period following Jan. 5, 1973, unless, in the case of a committee established by the President or an officer of the Federal Government, such committee is renewed by appropriate action prior to the expiration of such two-year period, or in the case of a committee established by the Congress, its duration is otherwise provided for by law, see section 14 of Pub. L. 92-463, Oct. 6, 1972, 86 Stat. 770, 776, set out in the Appendix to Title 5, Government Organization and Employees.

CROSS REFERENCES

Subsistence expenses and per diem allowances, see section 5701 et seq. of Title 5, Government Organization and Employees.

§ 1516. Authorization of appropriations; regulations

(a) There are hereby authorized to be appropriated such sums, not in excess of $12,000,000 for each fiscal year beginning after June 30, 1938, as may be necessary to cover the operating and administrative costs of the Corporation, which shall be allotted to the Corporation in such amounts and at such time or times as the Secretary of Agriculture may determine: *Provided,* That expenses in connection with the purchase, transportation, handling, or sale of the agricultural commodity and the direct cost of loss adjusters for crop inspections and loss adjustments may be considered by the Corporation as being nonadministrative or nonoperating expenses. The Corporation is authorized to use premium income for administrative and operating costs within limits prescribed in applicable appropriations.

(b) The Secretary and the Corporation, respectively are authorized to issue such regulations as may be necessary to carry out the provisions of this chapter.

(Feb. 16, 1938, ch. 30, title V, § 516, 52 Stat. 77; June 21, 1941, ch. 214, §§ 6, 8, 55 Stat. 255, 256; Aug. 3, 1956, ch. 950, § 10, 70 Stat. 1034.)

AMENDMENTS

1956—Subsec. (a). Act Aug. 3, 1956, added to the list of costs which may be considered as nonadministrative or nonoperating, the direct cost of loss adjusters for crop inspections and loss adjustment, and authorized the use of premium income for administrative and operating costs within limits prescribed by the applicable appropriation.

1941—Subsec. (a). Act June 21, 1941, substituted "the agricultural commodity" for "wheat", and "$12,000,000" for "$6,000,000".

TRANSFER OF FUNCTIONS

Administration of the program of the Federal Crop Insurance Corporation was transferred to Secretary of Agriculture by 1946 Reorg. Plan No. 3, § 501, eff. July 16, 1946, 11 F.R. 7877, 60 Stat. 1100. See note under section 1503 of this title.

Wartime consolidation of Federal Crop Insurance Corporation into Agricultural Conservation and Adjustment Administration, see note under section 1503 of this title.

ADDITIONAL APPROPRIATION

Act Dec. 23, 1944, ch. 713, § 6, 58 Stat. 920, provided an additional appropriation not to exceed $3,000,000 to be available for the fiscal year 1945 to carry out the provisions of this chapter for the fiscal years 1943 and 1944.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1507 of this title.

§ 1517. Separability of provisions

The sections of this chapter and subdivisions of sections are declared to be separable, and in the event any one or more sections or parts of the same of this chapter be held to be unconstitutional, the same shall not affect the validity of other sections or parts of sections of this chapter.

(Feb. 16, 1938, ch. 30, title V, § 517, 52 Stat. 77.)

§ 1518. Agricultural commodity defined

"Agricultural commodity", as used in this chapter, means wheat, cotton, flax, corn, dry beans, oats, barley, rye, tobacco, rice, peanuts, soybeans, sugar beets, sugarcane, timber and forests, potatoes and other vegetables,. citrus and other fruits, tame hay, or any other agricultural commodity determined by the Board pursuant to subsection (a) of section 1508 of this title, or any one or more of such commodities, as the context may indicate.

(Feb. 16, 1938, ch. 30, title V, § 518, as added June 21, 1941, ch. 214, § 9, 55 Stat. 256, and amended Dec. 23, 1944, ch. 713, § 4, 58 Stat. 919; Aug. 25, 1949, ch. 512, § 9, 63 Stat. 665.)

Prior Provisions

A former section 1518, act Feb. 16, 1938, ch. 30, title V, § 518, 52 Stat. 77, was transferred to section 1519 of this title at the time of the renumbering of such section 518 of act Feb. 16, 1938, as section 519 by act June 21, 1941, ch. 214, § 9, 55 Stat. 256.

Amendments

1949—Act Aug. 25, 1949, amended section to correct a clerical error in citation of "subsection (a) of section 1508".

1944—Act Dec. 23, 1944, increased scope of definition of "agricultural commodity" from "wheat or cotton" to include all crops now set out.

§ 1519. Amendment or repeal

The right to alter, amend, or repeal this chapter is reserved.

(Feb. 16, 1938, ch. 30, title V, § 519, formerly § 518, 52 Stat. 77, renumbered June 21, 1941, ch. 214, § 9, 55 Stat. 256.)

Codification

Section was formerly classified to section 1518 of this title.

§ 1520. Persons under twenty-one years of age

Notwithstanding any other provision of law, no person shall be denied insurance under this chapter solely on the ground that he is under twenty-one years of age if such person is (1) over eighteen years of age, and (2) has a bona fide insurable interest in a crop as an owner-operator, landlord, tenant or sharecropper: *Provided,* That any such person who enters into a Federal Crop Insurance contract shall be subject to the same legal liability and have the same legal rights with respect to such contract as any person over the age of twenty-one years.

(Feb. 16, 1938, ch. 30, title V, § 520, as added July 28, 1972, Pub. L. 92-357, 86 Stat. 501.)

CHAPTER 37—SEEDS

Sec.

1551. Short title.

SUBCHAPTER I—DEFINITIONS

1561. Definition of terms
1562. False representations as certified seed; required provisions.

SUBCHAPTER II—INTERSTATE COMMERCE

1571. Prohibitions relating to interstate commerce in certain seeds.
1572. Records.
1573. Exemptions.
(a) Carrier transporting seeds.
(b) Seeds not for seeding purposes.
(c) Emergency preventing presentation of information.
(d) Intermixture of unidentified seeds; percentages of kind or kind and variety of seeds.
(e) Name of substance used in treatment of seeds.
1574. Disclaimers, limited warranties and nonwarranties.
1575. False advertising.

SUBCHAPTER III—FOREIGN COMMERCE

1581. Prohibitions relating to importations.
1582. Procedure relating to importations; disposal of refuse; exceptions.
1583. Adulterated seed.
1584. Seed unfit for seeding purposes.
1585. Certain seeds required to be stained.
1586. Certain acts prohibited.

SUBCHAPTER IV—GENERAL PROVISIONS

1591. Delegation of duties.
1592. Rules and regulations.
1593. Standards, tests, tolerances.
1594. Prohibition against alterations.
1595. Seizure.
1596. Penalties.
1597. Agent's acts as binding principal.
1598. Notice of intention to prosecute.
1599. Cease and desist proceedings.
(a) Hearing.
(b) Report of Secretary of Agriculture.
(c) Amendment of report.
(d) Service.
1600. Appeal to court of appeals.
1601. Enforcement of order.
1602. Separability of proceedings.
1603. Procedural powers; witness fees and mileage.
1604. Publication.
1605. Authorization of appropriations.
1606. Authorization of expenditures.
1607. Cooperation with other governmental agencies.
1608. Separability of provisions.
1609. Repeals.
1610. Effective date.

SUBCHAPTER V—SALE OF UNCERTIFIED SEED OF PROTECTED VARIETY

1611. Illegal sales of uncertified seed.

Chapter Referred to in Other Sections

This chapter is referred to in section 2811 of this title; title 15 sections 1459, 2311.

§ 1551. Short title

This chapter may be cited as the "Federal Seed Act."

(Aug. 9, 1939, ch. 615, § 1, 53 Stat. 1275.)

Effective Date

See section 1610 of this title.

SUBCHAPTER I—DEFINITIONS

§ 1561. Definition of terms

(a) When used in this chapter—

(1) The term "United States" means the several States, District of Columbia, and Puerto Rico.

(2) The term "person" includes a partnership, corporation, company, society, or association.

(3) The term "interstate commerce" means—

(A) commerce between any State, Territory, possession, or the District of Colum-

bia, and any other State, Territory, possession, or the District of Columbia; or

(B) commerce between points within the same State, Territory, or possession, or the District of Columbia, but through any place outside thereof; or

(C) commerce within the District of Columbia.

(4) For the purposes of this chapter with respect to labeling for treatment, variety and origin (but not in anywise limiting the foregoing definition), seeds shall be considered to be in interstate commerce, or delivered for transportation in interstate commerce, if such seeds are part of, or delivered for transportation in, that current of commerce usual in the transportation and/or merchandising of seeds, whereby such seeds are sent from one State with the expectation that they will end their transit in another, including, in addition to cases within the above general description, all cases where seeds are transported or delivered for transportation to another State, or for processing or cleaning for seeding purposes within the State and shipment outside the State of the processed or cleaned seeds. Seeds normally in such current of commerce shall not be considered out of such current through resort being had to any means or device intended to remove transactions in respect thereto from the provisions of this chapter.

(5) The term "foreign commerce" means commerce between the United States, its possessions, or any Territory of the United States, and any foreign country.

(6)(a) The term "district court of the United States" means any court exercising the powers of a district court of the United States,

(b) Omitted.

(7) The term—

(A) "Agricultural seeds" shall mean grass, forage, and field crop seeds which the Secretary of Agriculture finds are used for seeding purposes in the United States and which he lists in the rules and regulations prescribed under section 1592 of this title.

(B) "Vegetable seeds" shall include the seeds of those crops that are or may be grown in gardens or on truck farms and are or may be generally known and sold under the name of vegetable seeds.

(8)(A) For the purpose of subchapter II of this chapter, the term "weed seeds" means the seeds or bulblets of plants recognized as weeds either by the law or rules and regulations of—

(i) The State into which the seed is offered for transportation, or transported; or

(ii) Puerto Rico, Guam, or District of Columbia into which transported, or District of Columbia in which sold.

(B) For the purpose of subchapter III of this chapter, the term "weed seeds" means seeds or bulblets of plants which are found by the Secretary of Agriculture to be detrimental to the agricultural interests of the United States, or any part thereof.

(9)(A) For the purpose of subchapter II of this chapter, the term "noxious-weed seeds" means the seeds or bulblets of plants recognized as noxious—

(i) by the law or rules and regulations of the State into which the seed is offered for transportation, or transported;

(ii) by the law or rules and regulations of Puerto Rico, Guam, or the District of Columbia, into which transported, or District of Columbia in which sold; or

(iii) by the rules and regulations of the Secretary of Agriculture under this chapter, when after investigation he shall determine that a weed is noxious in the United States or in any specifically designated area thereof.

(B) For the purpose of subchapter III of this chapter, the term "noxious-weed seeds" means the seeds of Lepidium draba L., Lepidium repens (Schrenk) Boiss., Hymenophysa pubescens C. A., Mey., white top; Cirsium arvense (L.) Scop., Canada thistle; Cuscuta spp., dodder; Agropyron repens (L.) Beauv., quackgrass; Sorghum halepense (L.) Pers., Johnson grass; Convolvulus arvensis L., bindweed; Centaurea picris Pall., Russian knapweed; Sonchus arvensis L., perennial sowthistle; Euphorbia esula L., leafy spurge; and seeds or bulblets of any other kinds which after investigation the Secretary of Agriculture finds should be included.

(10) The term "origin" means the State, District of Columbia, Puerto Rico, or possession of the United States, or the foreign country, or designated portion thereof, where the seed was grown.

(11) The term "kind" means one or more related species or subspecies which singly or collectively is known by one common name, for example, soybean, flax, carrot, radish, cabbage, cauliflower, and so forth.

(12) The term "variety" means a subdivision of a kind which is characterized by growth, plant, fruit, seed, or other characters by which it can be differentiated from other sorts of the same kind, for example, Marquis wheat, Flat Dutch cabbage, Manchu soybeans, Oxheart carrot, and so forth.

(13) The term "type" means either (A) a group of varieties so nearly similar that the individual varieties cannot be clearly differentiated except under special conditions, or (B) when used with a variety name means seed of the variety named which may be mixed with seed of other varieties of the same kind and of similar character, the manner of and the circumstances connected with the use of the designation to be governed by rules and regulations prescribed under section 1592 of this title.

(14) The term "germination" means the percentage of seeds capable of producing normal seedlings under ordinarily favorable conditions (not including seeds which produce weak, malformed, or obviously abnormal sprouts), determined by methods prescribed under section 1593 of this title.

(15) The term "hard seeds" means the percentage of seeds which because of hardness or impermeability do not absorb moisture or germinate under prescribed tests but remain hard during the period prescribed for germination of the kind of seed concerned, deter-

mined by methods prescribed under section 1593 of this title.

(16) The term "inert matter" means all matter not seeds, and includes among others broken seeds, sterile florets, chaff, fungus bodies, and stones, determined by methods prescribed under section 1593 of this title.

(17) The term "pure live seed" for the purpose of subchapter III of this chapter means that portion of any lot of seed subject to this chapter that consists of live agricultural or vegetable seed determined by methods prescribed under section 1593 of this title.

(18) The term "label" means the display or displays of written, printed, or graphic matter upon or attached to the container of seed.

(19) The term "labeling" includes all labels, and other written, printed, and graphic representations, in any form whatsoever, accompanying and pertaining to any seed whether in bulk or in containers, and includes invoices.

(20) The term "advertisement" means all representations, other than those on the label, disseminated in any manner or by any means, relating to seed within the scope of this chapter.

(21) Subject to such tolerances as the Secretary of Agriculture is authorized to prescribe under the provisions of this chapter—

(A) the term "false labeling" means any labeling which is false or misleading in any particular;

(B) the term "false advertisement" means any advertisement which is false or misleading in any particular.

(22) The term "screenings" shall include chaff, sterile florets, immature seed, weed seed, inert matter, and any other materials removed in any way from any seeds in any kind of cleaning or processing and which contain less than 25 per centum of live agricultural or vegetable seeds.

(23) The term "in bulk" refers to seed when loose either in vehicles of transportation or in storage, and not to seed in bags or other containers.

(24) The term "treated" means given an application of a substance or subjected to a process designed to reduce, control, or repel disease organisms, insects or other pests which attack seeds or seedlings growing therefrom.

(25) The term "seed certifying agency" means (A) an agency authorized under the laws of a State, Territory, or possession, to officially certify seed and which has standards and procedures approved by the Secretary (after due notice, hearings, and full consideration of the views of farmer users of certified seed and other interested parties) to assure the genetic purity and identity of the seed certified, or (B) an agency of a foreign country determined by the Secretary of Agriculture to adhere to procedures and standards for seed certification comparable to those adhered to generally by seed certifying agencies under (A).

(Aug. 9, 1939, ch. 615, title I, § 101, 53 Stat. 1275; June 25, 1948, ch. 646, § 1, 62 Stat. 870; Aug. 1, 1956, ch. 852, § 1, 70 Stat. 908; Aug. 1, 1958, Pub. L. 85-581, §§ 1-3, 72 Stat. 476; Oct. 15, 1966, Pub. L. 89-686, §§ 1-3, 19, 80 Stat. 975, 979; Oct. 17, 1969, Pub. L. 91-89, § 1, 83 Stat. 134.)

CODIFICATION

Section was enacted without a subsec. (b).

Former subsec. (a)(6)(b), which extended the former term "circuit court of appeals," in case the principal place of business or residence of the person against whom a cease and desist order was issued was in the District of Columbia, to the United States Court of Appeals for the District of Columbia, for purposes of this chapter, has been omitted from the Code as obsolete due to the enactment of act June 25, 1948. The District of Columbia is now a judicial circuit under sections 41 and 43 of Title 28, Judiciary and Judicial Procedure. See, also, Change of Name notes under sections 1599, 1600, and 1601 of this title.

AMENDMENTS

1969—Subsec. (a)(25). Pub. L. 91-89 added the provision authorizing the Secretary (after due notice, hearing, and full consideration of the views of interested parties) to approve of the standards and procedures of seed certifying agencies authorized under the laws of a State, Territory, or possession.

1966—Subsec. (a)(1). Pub. L. 89-686, § 1, deleted references to "Alaska," and "Hawaii," preceding and following "District of Columbia,".

Subsec. (a)(4). Pub. L. 89-686, § 19, inserted "treatment" before "variety".

Subsec. (a)(7)(A). Pub. L. 89-686, § 2, redefined "agricultural seeds" to be such as are listed in the rules and regulations rather than in the statutory text as added to or taken therefrom pursuant to rules and regulations.

Subsec. (a)(8)(A)(ii). Pub. L. 89-686, § 1, deleted reference to "Alaska, Hawaii," preceding "Puerto Rico".

Subsec. (a)(9)(A)(ii). Pub. L. 89-686, § 1, deleted reference to "Alaska, Hawaii," preceding "Puerto Rico".

Subsec. (a)(10). Pub. L. 89-686, § 1, deleted references to "Alaska," and "Hawaii," preceding and following "District of Columbia,".

Subsec. (a)(11). Pub. L. 89-686, § 3, substituted "soybean, flax, carrot, radish" for "wheat, oat, vetch, sweetclover".

1958—Subsec. (a)(7)(A). Pub. L. 85-581, § 1, included sugar beets in the list of seeds subject to this chapter by deleting the phrase "excluding sugar beet" following "Beta vulgaris L.—Field beet".

Subsec. (a)(24). Pub. L. 85-581, § 2, added par. (24).

Subsec. (a)(25). Pub. L. 85-581, § 3, added par. (25).

1956—Subsec. (a)(8)(A)(ii). Act Aug. 1, 1956, § 1(a), inserted "Guam" after "Puerto Rico".

Subsec. (a)(9)(A)(ii). Act Aug. 1, 1956, § 1(b), inserted "Guam" after "Puerto Rico".

EFFECTIVE DATE OF 1958 AMENDMENT

Pub. L. 85-581, § 16, provided that: "This Act [Pub. L. 85-581], and the amendments [adding sections 1561(a)(24), (25), 1562, 1571(i), 1581(a)(4), 1582(d) and 1586(c), and amending sections 1561(a)(7)(A), 1571(a)(8), (b)(1), (2), 1572, 1573(b), 1574 and 1582(a) of this title] made hereby, shall take effect upon the date of enactment [Aug. 1, 1958]."

EFFECTIVE DATE

See section 1610 of this title.

ADMISSION OF ALASKA AND HAWAII TO STATEHOOD

Alaska was admitted into the Union on Jan. 3, 1959, upon the issuance of Proc. No. 3269, Jan. 3, 1959, 24 F.R. 81, 73 Stat. c16, and Hawaii was admitted into the Union on Aug. 21, 1959, upon the issuance of Proc. No. 3309, Aug. 21, 1959, 24 F.R. 6868, 73 Stat. c74. For Alaska Statehood Law, see Pub. L. 85-508, July 7, 1958, 72 Stat. 339, set out as a note preceding section 21 of Title 48, Territories and Insular Possessions. For Hawaii Statehood Law, see Pub. L. 86-3, Mar. 18, 1959, 73 Stat. 4, set out as a note preceding section 491 of Title 48.

CROSS REFERENCES

Adulterated seed defined, see section 1583 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1571 of this title.

§ 1562. False representations as certified seed; required provisions

Any labeling, advertisement, or other representation subject to this chapter which represents that any seed is certified seed or any class thereof shall be deemed to be false in this respect unless (a) it has been determined by a seed certifying agency that such seed conformed to standards of genetic purity and identity as to kind or variety, and is in compliance with the rules and regulations of such agency pertaining to such seed; and (b) the seed bears an official label issued for such seed by a seed certifying agency certifying that the seed is of a specified class and a specified kind or variety. Seed of a variety for which a certificate of plant variety protection under the Plant Variety Protection Act [7 U.S.C. 2321 et seq.] specifies sale only as a class of certified seed shall be certified only when

(1) the basic seed from which the variety was produced furnished by authority of the owner of the variety if the certification is made during the term of protection, and

(2) it conforms to the number of generations designated by the certificate, if the certificate contains such a designation.

(Aug. 9, 1939, ch. 615, title I, § 102, as added Aug. 1, 1958, Pub. L. 85-581, § 4, 72 Stat. 476, and amended Oct. 17, 1969, Pub. L. 91-89, § 2, 83 Stat. 134; Dec. 24, 1970, Pub. L. 91-577, title III, § 142(b), 84 Stat. 1558.)

REFERENCES IN TEXT

The Plant Variety Protection Act, referred to in text, is Pub. L. 91-577, Dec. 24, 1970, 84 Stat. 1542, and is classified generally to chapter 57 (§ 2321 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2321 of this title and Tables volume.

AMENDMENTS

1970—Pub. L. 91-577 added provisions setting out the conditions for the certification of seed of any variety for which a certificate of plant variety protection under the Plant Variety Protection Act specifies sale only as a class of certified seed.

1969—Pub. L. 91-89 eliminated references to registered seed, and required labels, advertisement, or other representations to certify that the seed contained therein was determined by a seed certifying agency to be of a specified class and a specified kind of variety in conformity with the standards of genetic purity and identity as to kind or variety.

EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by Pub. L. 91-577 effective Dec. 24, 1970, see section 141 of Pub. L. 91-577, set out as a note under section 2321 of this title.

SUBCHAPTER II—INTERSTATE COMMERCE

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in section 1561 of this title.

§ 1571. Prohibitions relating to interstate commerce in certain seeds

It shall be unlawful for any person to transport or deliver for transportation in interstate commerce—

(a) Any agricultural seeds or any mixture of agricultural seeds for seeding purposes, unless each container bears a label giving the following information, except as provided in subsection (j) of this section for seed mixtures intended for lawn and turf purposes, in accordance with rules and regulations prescribed under section 1592 of this title.

(1) The name of the kind or kind and variety for each agricultural seed component present in excess of 5 per centum of the whole and the percentage by weight of each: *Provided,* That if any such component is one which the Secretary of Agriculture has determined, in rules and regulations prescribed under section 1592 of this title, is generally labeled as to variety, the label shall bear, in addition to the name of the kind, either the name of such variety or the statement "Variety Not Stated": *And provided, further,* That in the case of any such component which is a hybrid seed it shall, in addition to the above requirements, be designated as hybrid on the label;

(2) Lot number or other identification;

(3) Origin, stated in accordance with paragraph (a)(1) of this section, of each agricultural seed present which has been designated by the Secretary of Agriculture as one on which a knowledge of the origin is important from the standpoint of crop production, if the origin is known, and if each such seed is present in excess of 5 per centum. If the origin of such agricultural seed or seeds is unknown, that fact shall be stated;

(4) Percentage by weight of weed seeds, including noxious-weed seeds;

(5) Kinds of noxious-weed seeds and the rate of occurrence of each, which rate shall be expressed in accordance with and shall not exceed the rate allowed for shipment, movement, or sale of such noxious-weed seeds by the law and regulations of the State into which the seed is offered for transportation or transported or in accordance with the rules and regulations of the Secretary of Agriculture, when under the provisions of section 1561(a)(9)(A)(iii) of this title he shall determine that weeds other than those designated by State requirements are noxious;

(6) Percentage by weight of agricultural seeds other than those included under paragraph (a)(1) of this section;

(7) Percentage by weight of inert matter;

(8) For each agricultural seed, in excess of 5 per centum of the whole, stated in accordance with paragraph (a)(1) of this section, and each kind or variety or type of agricultural seed shown in the labeling to be present in a proportion of 5 per centum or less of the whole, (A) percentage of germination, exclusive of hard seed, (B) percentage of hard seed, if present, and (C) the calendar month and year the test was completed to determine such percentages;

(9) Name and address of (A) the person who transports, or delivers for transportation, said

seed in interstate commerce, or (B) the person to whom the seed is sold or shipped for resale, together with a code designation approved by the Secretary of Agriculture under rules and regulations prescribed under section 1592 of this title, indicating the person who transports or delivers for transportation said seed in interstate commerce;

(10) The year and month beyond which an inoculant, if shown in the labeling, is no longer claimed to be effective.

(b) Any vegetable seeds, for seeding purposes, in containers, unless each container bears a label giving the following information in accordance with rules and regulations prescribed under section 1592 of this title:

(1) For containers of one pound or less of seed that germinates equal to or above the standard last established by the Secretary of Agriculture, as provided under section 1593(c) of this title—

(A) The name of each kind and variety of seed, and if two or more kinds or varieties are present, the percentage of each, and further, that in the case of any such component which is a hybrid seed, it shall be designated as hybrid on the label; and

(B) Name and address of—

(i) the person who transports, or delivers for transportation, said seed in interstate commerce; or

(ii) the person to whom the seed is sold or shipped for resale, together with a code designation approved by the Secretary of Agriculture under rules and regulations prescribed under section 1592 of this title, indicating the person who transports or delivers for transportation said seed in interstate commerce;

(2) For containers of one pound or less of seed that germinates less than the standard last established by the Secretary of Agriculture, as provided under section 1593(c) of this title—

(A) The name of each kind and variety of seed, and if two or more kinds or varieties are present, the percentage of each, and further, that in the case of any such component which is a hybrid seed, it shall be designated as hybrid on the label; and

(B) For each named kind and variety of seed—

(i) the percentage of germination, exclusive of hard seed;

(ii) the percentage of hard seed, if present;

(iii) the calendar month and year the test was completed to determine such percentages;

(iv) the words "Below Standard"; and

(C) Name and address of—

(i) the person who transports, or delivers for transportation, said seed in interstate commerce; or

(ii) the person to whom the seed is sold or shipped for resale, together with a code designation approved by the Secretary of Agriculture under rules and regulations prescribed under section 1592 of this title, indicating the person who transports or delivers for transportation said seed in interstate commerce.

(3) For containers of more than one pound of seed—

(A) The name of each kind and variety of seed, and if two or more kinds or varieties are present, the percentage of each and, further, that in the case of any such component which is a hybrid seed, it shall be designated as hybrid on the label;

(B) Lot number or other lot identification;

(C) For each named kind and variety of seed—

(i) the percentage of germination, exclusive of hard seed;

(ii) the percentage of hard seed, if present;

(iii) the calendar month and year the test was completed to determine such percentages; and

(D) Name and address of—

(i) the person who transports, or delivers for transportation, said seed in interstate commerce; or

(ii) the person to whom the seed is sold or shipped for resale, together with a code designation approved by the Secretary of Agriculture under rules and regulations prescribed under section 1592 of this title, indicating the person who transports or delivers for transportation said seed in interstate commerce.

(c) Any agricultural or vegetable seed unless the test to determine the percentage of germination required by this section shall have been completed within a five-month period, exclusive of the calendar month in which the test was completed, immediately prior to transportation or delivery for transportation in interstate commerce: *Provided, however,* That the Secretary of Agriculture may by rules and regulations designate: (a) a shorter period for kinds of agricultural or vegetable seed which he finds under ordinary conditions of handling will not maintain, during the aforesaid five-month period, a germination within the established limits of tolerance; or (b) a longer period for any kind of agricultural or vegetable seed which is packaged in such container materials and under such other conditions prescribed by the Secretary of Agriculture as he finds will, during such longer period, maintain the viability of said seed under ordinary conditions of handling.

(d) Any agricultural seeds or vegetable seeds having a false labeling, or pertaining to which there has been a false advertisement, or to sell or offer for sale such seed for interstate shipment by himself or others.

(e) Seed which is required to be stained under the provisions of this chapter and the regulations made and promulgated thereunder, and is not so stained.

(f) Seed which has been stained to resemble seed stained in accordance with the provisions of this chapter and the regulations made and promulgated thereunder.

(g) Seed which is a mixture of seeds which are required to be stained or which are stained with different colors under the provisions of this chapter and of the regulations made and promulgated thereunder, or which is a mixture of any seed required to be stained under the provisions of this chapter and of the regula-

tions made and promulgated thereunder, with seed of the same kind produced in the United States.

(h) Screenings of any seed subject to this chapter, unless they are not intended for seeding purposes; and it is stated on the label, if in containers, or on the invoice if in bulk, that they are intended for cleaning, processing, or manufacturing purposes, and not for seeding purposes.

(i) Any agricultural seeds or any mixture thereof or any vegetable seeds or any mixture thereof, for seeding purposes, that have been treated, unless each container thereof bears a label giving the following information and statements in accordance with rules and regulations prescribed under section 1592 of this title:

(1) A word or statement indicating that the seeds have been treated;

(2) The commonly accepted coined, chemical (generic), or abbreviated chemical name of any substance used in such treatment;

(3) If the substance used in such treatment in the amount remaining with the seeds is harmful to humans or other vertebrate animals, an appropriate caution statement approved by the Secretary of Agriculture as adequate for the protection of the public, such as "Do not use for food or feed or oil purposes": *Provided,* That the caution statement for mercurials and similarly toxic substances, as defined in said rules and regulations, shall be a representation of a skull and crossbones and a statement such as "This seed has been treated with POISON", in red letters on a background of distinctly contrasting color; and

(4) A description, approved by the Secretary of Agriculture as adequate for the protection of the public, of any process used in such treatment.

(j) Any agricultural seed mixtures intended for lawn and turf seed purposes, in containers of fifty pounds or less, unless each container thereof bears a label giving the following information and statements in accordance with rules and regulations prescribed under section 1592 of this title:

(1) The headings "Fine-textured Grasses" and "Coarse Kinds", and specified in tabular form thereunder in type no larger than the headings, for each lawn and turf seed component present in excess of 5 per centum of the whole or named on the label:

(i) the name of the kind, or kind and variety,

(ii) the percentage by weight of each, in order of its predominance under the appropriate heading required above,

(iii) the percentage of germination of each, exclusive of hard seed,

(iv) the percentage of hard seed, if present, and

(v) the calendar month and year the test was completed to determine such percentages.

(2) The heading "Other Ingredients", and specified thereunder in type no larger than the heading the following information:

(A) Percentage by weight of weed seeds, including noxious-weed seeds;

(B) Percentage by weight of agricultural seeds other than those included under paragraph (1) of this subsection;

(C) Percentage by weight of inert matter.

(3) The following additional information:

(A) Lot number or other identification;

(B) Kinds of noxious-weed seeds and the rate of occurrence of each, which rate shall be expressed in accordance with and shall not exceed the rate allowed for shipment, movement, or sale of such noxious-weed seeds by the law and regulations of the State into which the seed is offered for transportation or transported, or in accordance with the rules and regulations of the Secretary of Agriculture, when under the provisions of section 1561(a)(9)(A)(iii) of this title he shall determine that weeds other than those designated by State requirements are noxious;

(C) Name and address of—

(i) the person who transports, or delivers for transportation, said seed in interstate commerce, or

(ii) the person to whom the seed is sold or shipped for resale, together with a code designation approved by the Secretary of Agriculture under rules and regulations prescribed under section 1592 of this title, indicating the person who transports or delivers for transportation said seed in interstate commerce.

(Aug. 9, 1939, ch. 615, title II, § 201, 53 Stat. 1279; Aug. 1, 1958, Pub. L. 85-581, §§ 5-8, 72 Stat. 476; Oct. 15, 1966, Pub. L. 89-686, §§ 4-10, 80 Stat. 975-977.)

AMENDMENTS

1966—Subsec. (a). Pub. L. 89-686, § 4, inserted in the introductory text, ", except as provided in subsection (j) of this section for seed mixtures intended for lawn and turf purposes,".

Subsec. (a)(1). Pub. L. 89-686, § 5, substituted "the kind or kind and variety" for "(A) kind, or (B) kind and variety, or (C) kind and type,", provided for labeling of component as to variety and for designation as a hybrid on label of hybrid seed component, and deleted following "weight of each" ": Provided, That such components are expressed in accordance with the category designated under (A), (B), or (C)".

Subsec. (a)(10). Pub. L. 89-686, § 6, added par. (10).

Subsec. (b). Pub. L. 89-686, § 7, substituted provisions respecting labeling requirements for containers of one pound or less of seed that germinates equal to or above the standard last established by the Secretary of Agriculture in par. (1), containers of one pound or less of seed that germinates less than the standard last established by the Secretary in par. (2), and containers of more than one pound of seed in par. (3), for former labeling requirements which prescribed in par. (1) name of each kind and variety of seed and if two or more kinds or varieties are present, the percentage of each, in par. (2) for each variety of vegetable seed which germinates less than the standard last established by the Secretary of Agriculture, as provided under section 1593(c) of this title, the percentage of germination, exclusive of hard seed; (ii) percentage of hard seed, if present; (iii) the calendar month and year the test was completed to determine such percentages; (iv) the words "Below Standard"; and in par. (3), name and address of—

(A) the person who transports, or delivers for transportation, said seed in interstate commerce; or

(B) the person to whom the seed is sold or shipped for resale, together with a code designation approved by the Secretary of Agriculture under rules and regu-

lations prescribed under section 1592 of this title, indicating the person who transports or delivers for transportation said seed in interstate commerce.

Subsec. (c). Pub. L. 89-686, § 8, substituted in clause (b) "a longer period for any kind of agricultural or vegetable seed which is packaged in such container materials and under such other conditions prescribed by the Secretary of Agriculture as he finds will, during such longer period, maintain the viability of said seed under ordinary conditions of handling" for "a longer period not to exceed nine months, exclusive of the calendar month in which the test was completed, for kinds of agricultural or vegetable seed which he finds under ordinary conditions of handling will maintain during such longer period a germination within the established limits of tolerance".

Subsec. (i)(4). Pub. L. 89-686, § 9, transposed "of any process used in such treatment" which followed "description" to the end of the sentence, inserting a comma preceding such phrase.

Subsec. (j). Pub. L. 89-686, § 10, added subsec. (j).

1958—Subsec. (a)(8). Pub. L. 85-581, § 5, inserted "and each kind or variety or type of agricultural seed shown in the labeling to be present in a proportion of 5 per centum or less of the whole".

Subsec. (b)(1). Pub. L. 85-581, § 6, required label on container to show percentage where two or more varieties of seed are present.

Subsec. (b)(2). Pub. L. 85-581, § 7, substituted "For each variety of vegetable seed" for "For seeds".

Subsec. (i). Pub. L. 85-581, § 8, added subsec. (i).

EFFECTIVE DATE

See section 1610 of this title.

CROSS REFERENCES

Delegation of regulatory functions of Secretary of Agriculture, see section 450c et seq. of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1573, 1593 of this title.

§ 1572. Records

All persons transporting, or delivering for transportation, in interstate commerce, agricultural seeds shall keep for a period of three years a complete record of origin, treatment, germination, and purity of each lot of such agricultural seeds, and all persons transporting, or delivering for transportation, in interstate commerce, vegetable seeds shall keep for a period of three years a complete record of treatment, germination and variety of such vegetable seeds. The Secretary of Agriculture, or his duly authorized agents, shall have the right to inspect such records for the purpose of the effective administration of this chapter.

(Aug. 9, 1939, ch. 615, title II, § 202, 53 Stat. 1281; Aug. 1, 1958, Pub. L. 85-581, § 9, 72 Stat. 477; Oct. 15, 1966, Pub. L. 89-686, § 11, 80 Stat. 978.)

AMENDMENTS

1966—Pub. L. 89-686 required record of treatment of agricultural and vegetable seeds.

1958—Pub. L. 85-581 required the keeping of records of vegetable seeds.

EFFECTIVE DATE

See section 1610 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1573 of this title.

§ 1573. Exemptions

(a) Carrier transporting seeds

The provisions of sections 1571 and 1572 of this title shall not apply to any carrier in respect to any seed transported or delivered for transportation in the ordinary course of its business as a carrier: *Provided,* That such carrier is not engaged in processing or merchandising seed subject to the provisions of this chapter; and such provisions shall not apply to seeds produced by any farmer on his own premises and sold by him directly to the consumer, provided such farmer is not engaged in the business of selling seeds not produced by him: *And provided further,* That such seeds produced or sold by him when transported or offered for transportation to any State, Territory, or District, shall not be exempted from the provisions of sections 1571 and 1572 of this title unless said seeds shall be in compliance with the operation and effect of the laws of such State, Territory, or District, enacted in the exercise of its police power, to the same extent and in the same manner as though such seed had been produced, sold, offered or exposed for sale in such State, Territory, or District, and shall not be exempted therefrom by reason of being introduced therein in original packages or otherwise: *And provided further,* That such seeds produced or sold by him are in compliance with the seed laws of the State into which the seed is transported.

(b) Seeds not for seeding purposes

The provisions of section 1571(a), (b), or (i) of this title shall not apply—

(1) to seed or grain not intended for seeding purposes when transported or offered for transportation in ordinary channels of commerce usual for such seed or grain intended for manufacture or for feeding; or

(2) to seed intended for seeding purposes when transported or offered for transportation in interstate commerce—

(A) if in bulk, in which case, however, the invoice or other records accompanying and pertaining to such seed shall bear the various statements required for the respective seeds under section 1571(a), (b), and (i) of this title; or

(B) if in containers and in quantities of twenty thousand pounds or more: *Provided,* That (i) the omission from each container of the information required under section 1571(a), (b), and (i) of this title is with the knowledge and consent of the consignee prior to the transportation or delivery for transportation of such seed in interstate commerce, (ii) each container shall have stenciled upon it or bear a label containing a lot designation, and (iii) the invoice or other records accompanying and pertaining to such seed shall bear the various statements required for the respective seeds under section 1571(a), (b), and (i) of this title; or

(C) if consigned to a seed cleaning or processing establishment, to be cleaned or processed for seeding purposes: *Provided,* That (i) this fact is so stated in the invoice or other records accompanying and pertaining to such seed if the seed is in bulk or if the

seed is in containers and in quantities of twenty thousand pounds or more, (ii) this fact is so stated on attached labels if the seed is in containers and in quantities less than twenty thousand pounds, and (iii) any such seed later to be labeled as to origin and/or variety shall be labeled as to origin and/or variety in accordance with rules and regulations prescribed under section 1592 of this title.

(c) Emergency preventing presentation of information

When the Secretary of Agriculture finds that, because of the time interval between seed harvesting and sowing, or because of an emergency beyond human control, the information required by this chapter as to the germination, and hard seed of certain kinds of seeds, cannot be given prior to transportation or delivery for transportation in interstate commerce, he may promulgate, with or without a hearing, rules and regulations providing that the provisions of section 1571(a) and (b) of this title as to the required labeling for germination and hard seed shall not apply for such period and to such kinds of seed as he may specify in his said rules and regulations.

(d) Intermixture of unidentified seeds; percentages of kind or kind and variety of seeds

The provisions of sections 1571(a) and (b) of this title relative to the labeling of agricultural and vegetable seeds with the percentages of the kind or kind and variety of seeds shall not be deemed violated if there are seeds in the container or bulk which could not be, or were not, identified because of their indistinguishability in appearance from the seeds intended to be transported or delivered for transportation in interstate commerce: *Provided,* That the records of the person charged with the duty under said section of labeling or invoicing the seeds, kept in accordance with the rules and regulations of the Secretary of Agriculture, together with other pertinent facts, disclose that said person has taken reasonable precautions to insure the identity of the seeds to be that stated.

(e) Name of substance used in treatment of seeds

The provisions of section 1571(i) of this title relative to the labeling of agricultural and vegetable seeds with the name of any substance used in the treatment of seeds shall not be deemed violated if the substance or substances used in such treatment could not be or were not identified because of their indistinguishability from the substance or substances intended to be used in the treatment of the seeds: *Provided,* That the records of the person charged with the duty under said section of labeling or invoicing the seeds, kept in accordance with the rules and regulations of the Secretary of Agriculture, together with other pertinent facts, disclosed that said person has taken reasonable precautions to insure the identity of the substance or substances to be as stated.

(Aug. 9, 1939, ch. 615, title II, § 203, 53 Stat. 1281; Aug. 1, 1958, Pub. L. 85-581, § 10, 72 Stat. 477; Oct. 15, 1966, Pub. L. 89-686, § 12, 80 Stat. 978.)

AMENDMENTS

1966—Subsec. (d). Pub. L. 89-686, § 12(a), substituted "the kind or kind and variety of seeds", "if there are seeds", ": Provided, That", and "reasonable precautions to insure the identity of the seed to be that stated" for "the kind or variety or type of seeds", "if there be other seeds", ", provided that", and "proper precautions to insure the identity to be that stated", respectively.

Subsec. (e). Pub. L. 89-686, § 12(b), added subsec. (e).

1958—Subsec. (b). Pub. L. 85-581 inserted references to section 1571(i) of this title and eased labeling requirements with respect to shipment of seed in containers and in quantities of twenty thousand pounds or more.

EFFECTIVE DATE

See section 1610 of this title.

§ 1574. Disclaimers, limited warranties and nonwarranties

The use of a disclaimer, limited warranty, or nonwarranty clause in any invoice, advertising, labeling, or written, printed, or graphic matter, pertaining to any seed shall not constitute a defense, or be used as a defense in any way, in any prosecution or other proceeding brought under the provisions of this chapter, or the rules and regulations made and promulgated thereunder. Nothing in this section is intended to preclude the use of a disclaimer, limited warranty, or nonwarranty clause as a defense in any proceeding not brought under this chapter.

(Aug. 9, 1939, ch. 615, title II, § 204, 53 Stat. 1282; July 9, 1956, ch. 520, § 2, 70 Stat. 508; Aug. 1, 1958, Pub. L. 85-581, § 11, 72 Stat. 478.)

AMENDMENTS

1958—Pub. L. 85-581 precluded the use of limited warranty clause as defense in prosecution or other proceeding brought under provisions of this chapter and stated that the use of the enumerated clauses as defenses in proceedings not brought under this chapter is not barred.

1956—Act July 9, 1956, substituted "or other proceeding" for ", or in any proceeding for confiscation of seeds,".

EFFECTIVE DATE OF 1956 AMENDMENT

Amendments made by act July 9, 1956 applicable only with respect to violations occurring after July 9, 1956, see note set out under section 1596 of this title.

EFFECTIVE DATE

See section 1610 of this title.

§ 1575. False advertising

It shall be unlawful for any person to disseminate, or cause to be disseminated, any false advertisement concerning seed, by the United States mails, or in interstate or foreign commerce, in any manner or by any means, including radio broadcasts: *Provided, however,* That no person, advertising agency, or medium for the dissemination of advertising, except the person who transported, delivered for transportation, sold, or offered for sale seed to which the false advertisement relates, shall be liable under this section by reason of disseminating or causing to be disseminated any false advertisement, unless he or it has refused, on the request of the Secretary of Agriculture, to furnish the Secretary the name and post-office address of the person, or advertising agency, re-

siding in the United States, who caused, directly or indirectly, the dissemination of such advertisement.

(Aug. 9, 1939, ch. 615, title II, § 205, 53 Stat. 1282.)

EFFECTIVE DATE

See section 1610 of this title.

SUBCHAPTER III—FOREIGN COMMERCE

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 1561, 1592 of this title.

§ 1581. Prohibitions relating to importations

(a) The importation into the United States is prohibited of—

(1) any seed containing 10 per centum or more of any agricultural or vegetable seeds if any such seed is adulterated or unfit for seeding purposes, or is required to be stained and is not so stained, under the terms of this subchapter, or the labeling of which is false or misleading in any respect;

(2) screenings of any seeds subject to this subchapter (except that this shall not apply to screenings of wheat, oats, rye, barley, buckwheat, field corn, sorghum, broomcorn, flax, millet, proso, soybeans, cowpeas, field peas, or field beans, which are not imported for seeding purposes and are declared for cleaning, processing, or manufacturing purposes, and not for seeding purposes);

(3) any seed containing 10 per centum or more of the seeds of alfalfa or red clover, which has been stained prior to being offered for entry in a manner that does not permit compliance with the provisions of this subchapter and the regulations made and promulgated thereunder.

(4) any seed containing 10 per centum or more of any agricultural or vegetable seeds, unless the invoice pertaining to such seed and any other labeling of such seed bear a lot identification and the name of each kind and variety of vegetable seed present in any amount and each kind or kind and variety of agricultural seed present in excess of 5 per centum of the whole, and unless in the case of hybrid seed present in excess of 5 per centum of the whole it is designated as hybrid.

(5) any agricultural seeds or any mixture thereof, or any vegetable seeds or any mixture thereof, for seeding purposes, that have been treated, unless each container thereof bears a label giving the following information and statements in accordance with rules and regulations prescribed under section 1592 of this title:

(A) A word or statement indicating that the seeds have been treated;

(B) The commonly accepted coined, chemical (generic), or abbreviated chemical name of any substance used in such treatment;

(C) If the substance used in such treatment in the amount remaining with the seeds is harmful to humans or other vertebrate animals, an appropriate caution statement approved by the Secretary of Agriculture as adequate for the protection of the public, such as "Do not use for food or feed or oil purposes"; *Provided*, That the caution statement for mercurials and similarly toxic substances, as defined in said rules and regulations, shall be a representation of a skull and crossbones and a statement such as "This seed has been treated with POISON", in red letters on a background of distinctly contrasting color; and

(D) A description, approved by the Secretary of Agriculture as adequate for the protection of the public, of any process used in such treatment.

(Aug. 9, 1939, ch. 615, title III, § 301, 53 Stat. 1282; Aug. 1, 1958, Pub. L. 85-581, § 12, 72 Stat. 478; Oct. 15, 1966, Pub. L. 89-686, §§ 13, 14, 80 Stat. 978.)

CODIFICATION

Section was enacted without a subsection (b).

AMENDMENTS

1966—Subsec. (a)(4). Pub. L. 89-686, § 13, prohibited importation of any seed containing 10 per centum or more of any agricultural seeds and prescribed as additional prerequisites to importation a lot identification for the invoice and any other labeling, the kind and variety of seed present in any amount, each kind or kind and variety of seed present in excess of 5 per centum of the whole, and hybrid designation in case of hybrid seed present in excess of 5 per centum of the whole.

Subsec. (a)(5). Pub. L. 89-686, § 14, added par. (5).

1958—Subsec. (a)(4). Pub. L. 85-581 added par. (4).

EFFECTIVE DATE

See section 1610 of this title.

CROSS REFERENCES

Adulterated seed defined, see section 1583 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1583, 1584, 1585 of this title.

§ 1582. Procedure relating to importations; disposal of refuse; exceptions

(a) The Secretary of the Treasury shall deliver to the Secretary of Agriculture, subject to joint rules and regulations prescribed under section 1592 of this title, samples of seed and screenings which are being imported into the United States, or offered for import, giving notice thereof to the owner or consignee, and if it appears from the examination of such samples that any seed or screenings offered to be imported into the United States are subject to the provisions of this subchapter and do not comply with the provisions of this subchapter, or if the labeling of such seed is false or misleading in any respect, such seed or screenings shall be refused admission, and the Secretary of the Treasury shall refuse delivery to the owner or consignee, who may appear, however, before the Secretary of Agriculture and show cause why the seed or screenings should be admitted. The Secretary of Agriculture may apply statistical sampling and inspection techniques to said samples and screenings to determine whether the pure-live seed requirement of any kind of seed is being met, in which case, he shall advise the importer of each lot of seed not

examined for pure-live seed percentage. Seed or screenings refused admission and not exported by the owner or consignee within twelve months from the date of notice of such refusal shall be destroyed in accordance with joint rules and regulations prescribed under section 1592 of this title: *Provided,* That the Secretary of the Treasury may authorize the delivery of seed or screenings which are being imported or offered for import to the owner or consignee thereof, pending decision as to the admission of such seed or screenings and for staining, cleaning, labeling, or other reconditioning if required to bring such seed or screenings into compliance with the provisions of this chapter, upon the execution by such owner or consignee of a good and sufficient bond conditioned upon redelivery of the seed or screenings upon demand unless redelivery is waived because the seed is reconditioned to bring it into compliance with this chapter or is destroyed under Government supervision under this chapter, and providing for the payment of such liquidated damages in the event of default as may be required pursuant to regulations of the Secretary of the Treasury: *And provided further,* That all expenses incurred by the United States (including travel, per diem or subsistence, and salaries of officers or employees of the United States) in connection with the supervision of staining, cleaning, labeling, other reconditioning, or destruction, of seed or screenings under this subchapter shall be reimbursed to the United States by the owner or consignee of the seed or screenings, and such reimbursements shall be recredited to the appropriation from which the expenses were paid, the amount of such expenses to be determined in accordance with joint regulations under section 1592 of this title, and all expenses in connection with the storage, cartage, and labor on the seed or screenings which are refused admission or delivery, shall be paid by the owner or consignee, and in default of such payment shall constitute a lien against future importations made by such owner or consignee.

(b) The refuse from any seeds or screenings which are allowed to be cleaned under bond shall be destroyed in accordance with joint rules and regulations prescribed under section 1592 of this title.

(c) The provisions of this subchapter shall not apply—

(1) when seed is shipped in bond through the United States, or

(2) when the Secretary of Agriculture finds that a substantial proportion of the importations of any kind of seed is used for other than seeding purposes, and he provides by rules and regulations that seed of such kind not imported for seeding purposes shall be exempted from the provisions of the chapter: *Provided,* That importations of such kinds of seed shall be accompanied by a declaration setting forth the use for which imported when and as required under joint rules and regulations prescribed under section 1592 of this title.

(d) The provisions of this subchapter prohibiting the importation of seed that is adulterated or unfit for seeding purposes shall not apply—

(1) when seed grown in the United States is returned from a foreign country without having been admitted into the commerce of any foreign country: *Provided,* That there is satisfactory proof as provided for in the joint rules and regulations prescribed under section 1592 of this title, that the seed was grown in the United States and was not admitted into the commerce of a foreign country and was not commingled with other seed, or

(2) when seed is imported for sowing for experimental or breeding purposes and not for sale: *Provided,* That declarations are filed, and importations are limited in quantity, as provided for in the rules and regulations prescribed under section 1592 of this title, to assure that the importations are for experimental or breeding purposes.

(3) when seed not meeting the pure-live seed requirements of section 1584 of this title will not be sold within the United States and will be used for seed production only by or for the importer or consignee: *Provided,* That the importer of record or consignee files a statement in accordance with the rules and regulations prescribed under section 1592 of this title certifying that such seed will be used only for seed production by or for the importer or consignee.

(e) The provisions of this subchapter requiring certain seeds to be stained shall not apply when such seed will not be sold within the United States and will be used for seed production only by or for the importer or consignee: *Provided,* That the importer of record or consignee files a statement in accordance with the rules and regulations prescribed under section 1592 of this title certifying that such seed will be used only for seed production by or for the importer or consignee.

(Aug. 9, 1939, ch. 615, title III, § 302, 53 Stat. 1283; Aug. 1, 1958, Pub. L. 85-581, §§ 13, 14, 72 Stat. 478, 479; Oct. 15, 1966, Pub. L. 89-686, §§ 15-17, 80 Stat. 979.)

AMENDMENTS

1966—Subsec. (a). Pub. L. 89-686, § 15, authorized the Secretary of Agriculture to apply statistical sampling and inspection techniques to samples and screenings to determine whether the pure-live seed requirement of any kind of seed is being met and to advise the importer of each lot of seed not examined for pure-live seed percentage.

Subsec. (d)(3). Pub. L. 89-686, § 16, added par. (3).

Subsec. (e). Pub. L. 89-686, § 17, added subsec. (e).

1958—Subsec. (a). Pub. L. 85-851, § 13, inserted "owner or" before "consignee" wherever appearing, except in the two provisos, changed first proviso to bring its wording in line with practices generally followed with other commodities illegally placed into consumption, and provided in second proviso for reimbursement of all costs to the Federal Government incident to supervision required under this chapter.

Subsec. (d). Pub. L. 85-581, § 14, added subsec. (d).

EFFECTIVE DATE

See section 1610 of this title.

CROSS REFERENCES

Delegation of regulatory functions of Secretary of Agriculture, see section 450c et seq. of this title.

§ 1583. Adulterated seed

Seed subject to the provisions of section 1581 of this title is adulterated if any kind of such seed contains more than 5 per centum by weight of seed or seeds of another kind or kinds of similar appearance: *Provided,* That the mixture of the seed of white and alsike clover, or red clover and alsike clover, shall not be deemed to be adulterated, and that other seed mixtures of similar kinds of seeds of similar appearance shall not be deemed to be adulterated when the Secretary of Agriculture finds and prescribes by order that the importation of such seed mixtures for planting is not detrimental to the user of such seeds.

(Aug. 9, 1939, ch. 615, title III, § 303, 53 Stat. 1283.)

EFFECTIVE DATE

See section 1610 of this title.

CROSS REFERENCES

Delegation of regulatory functions of Secretary of Agriculture, see section 450c et seq. of this title.

§ 1584. Seed unfit for seeding purposes

Seed subject to the provisions of section 1581 of this title is unfit for seeding purposes: (a) if any such seed contains noxious-weed seeds, or (b) if any such seed contains more than 2 per centum by weight of weed seeds, or (c) if any such seed contains less than 75 per centum of pure-live seed, or if any component of such seed present to the extent of 10 per centum or more contains less than 75 per centum of live seed: *Provided,* That when the Secretary of Agriculture shall find that any such seed or any kind of seed present to the extent of 10 per centum or more cannot be produced to contain 75 per centum of pure-live seed, he may set up such standards from time to time for pure-live seed as he finds can be produced and seed conforming to such standards shall not be deemed to be unfit for seeding purposes.

(Aug. 9, 1939, ch. 615, title III, § 304, 53 Stat. 1284; Oct. 15, 1966, Pub. L. 89-686, § 18, 80 Stat. 979.)

AMENDMENTS

1966—Pub. L. 89-686 redesignated former subsecs. (a) to (c) as clauses (a) to (c), declared in clause (a) seed to be unfit for seeding purposes when containing any noxious-weed (previously proscribed in former subsec. (a) when containing noxious-weed seeds in specified amounts), substituted in clause (c) "pure-live" for "pure, live" in two instances and stated in the proviso that seed conforming to the described standards shall not be deemed to be unfit for seeding purposes.

EFFECTIVE DATE

See section 1610 of this title.

CROSS REFERENCES

Delegation of regulatory functions of Secretary of Agriculture, see section 450c et seq. of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1582 of this title.

§ 1585. Certain seeds required to be stained

(a) Any seed containing 10 per centum or more of the seeds of alfalfa and/or red clover, subject to the provisions of section 1581 of this title, shall be stained in such manner and to such extent as the Secretary of Agriculture by regulation may prescribe and, when practicable, the color produced by such stain shall indicate the country or region of origin.

(b) Whenever the Secretary of Agriculture, after public hearing, determines that seed of alfalfa or red clover from any foreign country or region is not adapted for general agricultural use in the United States, he shall publish such determination. On and after the expiration of ninety days after the date of such publication, and until such determination is revoked, 10 per centum or more of the seeds in each container of such alfalfa or red clover seed, or any seed containing 10 per centum or more of such alfalfa or red clover seed, shall be stained a red color, in accordance with such regulations as the Secretary of Agriculture may prescribe.

(c) Whenever the origin of the seed of alfalfa or of red clover present in excess of 10 per centum in any seed subject to section 1581 of this title is unestablished, 10 per centum of the seed in each container shall be stained a red color.

(d) Whenever the seeds of alfalfa or of red clover of different origins are present in excess of 10 per centum in any seed subject to section 1581 of this title, and different colors are required by reason of such different origins, 10 per centum of the seed in each container shall be stained red.

(e) Whenever any seed required to be stained under the provisions of this chapter is commingled with seed of the same kind grown in the United States, the seed in each container thereof shall be stained 10 per centum red.

(Aug. 9, 1939, ch. 615, title III, § 305, 53 Stat. 1284.)

EFFECTIVE DATE

See section 1610 of this title.

CROSS REFERENCES

Delegation of regulatory functions of Secretary of Agriculture, see section 450c et seq. of this title.

§ 1586. Certain acts prohibited

It shall be unlawful for any person—

(a) To sell or offer for sale—

(1) any seed for seeding purposes if imported under this subchapter for other than seeding purposes;

(2) any screenings of any seeds for seeding purposes if imported under this subchapter for other than seeding purposes;

(3) any seed which is prohibited entry under the provisions of this chapter;

(4) any seed which has been stained to resemble seed stained in accordance with the provisions of this chapter and the rules and regulations made and promulgated thereunder;

(5) any seed stained under the provisions of this chapter and the rules and regulations made and promulgated thereunder, when

mixed with seed of the same kind produced in the United States;

(6) any seed stained with different colors;

(7) any seed stained under the provisions of this chapter, the labeling of which states that such seed is adapted.

(b) To change the proportion of seeds stained under the provisions of this chapter and the rules and regulations made and promulgated thereunder or to alter, modify, conceal, or remove in any manner or by any means the color of such stained seeds.

(c) To make any false or misleading representation with respect to any seed subject to this subchapter being imported into the United States or offered for import: *Provided*, That this subsection shall not be deemed violated by any person if the false or misleading representation is the name of a variety indistinguishable in appearance from the seed being imported or offered for import and the records and other pertinent facts reveal that such person relied in good faith upon representations with respect to the name of the indistinguishable variety made by the shipper of the seed.

(Aug. 9, 1939, ch. 615, title III, § 306, 53 Stat. 1285; Aug. 1, 1958, Pub. L. 85-581, § 15, 72 Stat. 479.)

AMENDMENTS

1958—Subsec. (c). Pub. L. 85-581 added subsec. (c).

EFFECTIVE DATE

See section 1610 of this title.

CROSS REFERENCES

Tobacco seeds, prohibition against exportation, see sections 516 and 517 of this title.

SUBCHAPTER IV—GENERAL PROVISIONS

§ 1591. Delegation of duties

Any duties devolving upon the Secretary of Agriculture by virtue of the provisions of this chapter may with like force and effect be executed by such officer or officers, agent or agents, of the Department of Agriculture as the Secretary may designate for the purpose.

(Aug. 9, 1939, ch. 615, title IV, § 401, 53 Stat. 1285.)

EFFECTIVE DATE

See section 1610 of this title.

CROSS REFERENCES

Delegation of regulatory functions of Secretary of Agriculture, see section 450c et seq. of this title.

§ 1592. Rules and regulations

(a) The Secretary of Agriculture shall make such rules and regulations as he may deem necessary for the effective enforcement of this chapter, except as otherwise provided in this section.

(b) The Secretary of the Treasury and the Secretary of Agriculture shall make, jointly or severally such rules and regulations as they may deem necessary for the effective enforcement of subchapter III of this chapter.

(c) Prior to the promulgation of any rule or regulation under this chapter, due notice shall be given by publication in the Federal Register of intention to promulgate and the time and place of a public hearing to be held with reference thereto, and no rule or regulation may be promulgated until after such hearing. Any rule or regulation shall become effective on the date fixed in the promulgation, which date shall be not less than thirty days after publication in the Federal Register and may be amended or revoked in the manner provided for its promulgation.

(Aug. 9, 1939, ch. 615, title IV, § 402, 53 Stat. 1285.)

EFFECTIVE DATE

See section 1610 of this title.

CROSS REFERENCES

Delegation of regulatory functions of Secretary of Agriculture, see section 450c et seq. of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1561, 1571, 1573, 1581, 1582, 1593 of this title.

§ 1593. Standards, tests, tolerances

(a) The samplings, analyses, tests, or examinations of seeds made in connection with the administration of this chapter shall be made by methods set forth by rules and regulations prescribed under section 1592 of this title.

(b) The Secretary of Agriculture is authorized and directed to make and promulgate by rules and regulations, reasonable tolerances as to the percentages and rates of occurrence required to be stated or required by this chapter.

(c) For the purpose of section 1571(b) of this title, the Secretary of Agriculture is authorized and directed to investigate, determine, establish, and promulgate from time to time such reasonable standards of germination for each kind of vegetable seed as will in his judgment best protect crop production.

(Aug. 9, 1939, ch. 615, title IV, § 403, 53 Stat. 1285.)

EFFECTIVE DATE

See section 1610 of this title.

CROSS REFERENCES

Delegation of regulatory functions of Secretary of Agriculture, see section 450c et seq. of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1561, 1571 of this title.

§ 1594. Prohibition against alterations

No person shall detach, alter, deface, or destroy any label provided for in this chapter or the rules and regulations made and promulgated thereunder by the Secretary of Agriculture, or alter or substitute seed in a manner that may defeat the purpose of this chapter.

(Aug. 9, 1939, ch. 615, title IV, § 404, 53 Stat. 1286.)

EFFECTIVE DATE

See section 1610 of this title.

§ 1595. Seizure

(a) Any seed sold, delivered for transportation in interstate commerce, or transported in interstate or foreign commerce in violation of any of the provisions of this chapter shall, at the time of such violation or at any time thereafter, be liable to be proceeded against on libel of information and condemned in any district court of the United States within the jurisdiction of which the seed is found.

(b) If seed is condemned by a decree of the court as being in violation of the provisions of this chapter, it may be disposed of by the court by—

(1) sale; or

(2) delivery to the owner thereof after he has appeared as claimant and paid the court costs and fees and storage and other proper expenses and executed and delivered a bond with good and sufficient sureties that such seed will not be sold or disposed of in any jurisdiction contrary to the provisions of this chapter and the rules and regulations made and promulgated thereunder, or the laws of such jurisdiction; or

(3) destruction.

(c) If such seed is disposed of by sale, the proceeds of the sale, less the court costs and fees and storage and other proper expenses, shall be paid into the Treasury as miscellaneous receipts, but such seed shall not be sold or disposed of in any jurisdiction contrary to the provisions of this chapter and the rules and regulations made and promulgated thereunder, or the laws of such jurisdiction.

(d) The proceedings in such libel cases shall conform, as nearly as may be, to the proceedings in admiralty, except that either party may demand trial by jury of any issue of fact joined in any such case; and such proceedings shall be at the suit of and in the name of the United States.

(Aug. 9, 1939, ch. 615, title IV, § 405, 53 Stat. 1286.)

EFFECTIVE DATE

See section 1610 of this title

CROSS REFERENCES

United States as plaintiff, jurisdiction of district courts, see section 1345 of Title 28, Judiciary and Judicial Procedure.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1602 of this title.

§ 1596. Penalties

(a) Any person who knowingly, or as a result either of gross negligence or of a failure to make a reasonable effort to inform himself of the pertinent facts, violates any provision of this chapter or the rules and regulations made and promulgated thereunder shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall pay a fine of not more than $1,000, for the first offense, and upon conviction for each subsequent offense not more than $2,000.

(b) Any person who violates any provision of this chapter or the rules and regulations made and promulgated thereunder shall forfeit to the United States a sum, not less than $25 or more than $500, for each such violation, which forfeiture shall be recoverable in a civil suit brought in the name of the United States.

(Aug. 9, 1939, ch. 615, title IV, § 406, 53 Stat. 1286; July 9, 1956, ch. 520, § 1, 70 Stat. 508.)

AMENDMENTS

1956—Act July 9, 1956, designated existing provisions as subsec. (a), inserted therein the words "knowingly or as a result either of gross negligence or of a failure to make a reasonable effort to inform himself of the pertinent facts," and added subsec. (b).

EFFECTIVE DATE OF 1956 AMENDMENT

Section 4 of act July 9, 1956, provided that: "The amendments made by this Act [amending this section and sections 1574 and 1602 of this title] shall be applicable only with respect to violations occurring after the enactment of this Act [July 9, 1956]."

EFFECTIVE DATE

See section 1610 of this title.

CROSS REFERENCES

Fines, penalties and forfeitures, see section 2461 et seq. of Title 28, Judiciary and Judicial Procedure.

Misdemeanor defined, see section 1 of Title 18, Crimes and Criminal Procedure.

United States as party generally, see section 2401 et seq. of Title 28, Judiciary and Judicial Procedure.

United States as plaintiff, jurisdiction of district courts, see section 1345 of Title 28.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1602 of this title.

§ 1597. Agent's acts as binding principal

When construing and enforcing the provisions of this chapter, the act, omission, or failure of any officer, agent, or other person acting for or employed by any person, partnership, corporation, company, society, or association, shall in every case be also deemed to be the act, omission, or failure of such person, partnership, corporation, company, society, or association, as well as that of the person employed.

(Aug. 9, 1939, ch. 615, title IV, § 407, 53 Stat. 1286.)

EFFECTIVE DATE

See section 1610 of this title.

§ 1598. Notice of intention to prosecute

Before any violation of this chapter is reported by the Secretary of Agriculture to any United States attorney for institution of a criminal proceeding, the person against whom such proceeding is contemplated shall be given appropriate notice and an opportunity to prevent [1] his views, either orally or in writing, with regard to such contemplated proceeding.

(Aug. 9, 1939, ch. 615, title IV, § 408, 53 Stat. 1286.)

EFFECTIVE DATE

See section 1610 of this title.

[1] So in original. Probably should read "present".

§ 1599. Cease and desist proceedings

(a) Hearing

Whenever the Secretary of Agriculture has reason to believe that any person has violated or is violating any of the provisions of this chapter or the rules and regulations made and promulgated thereunder, he shall cause a complaint in writing to be served upon the person, stating his charges in that respect, and requiring the person to attend and testify at a hearing at a time and place designated therein, at least thirty days after the service of such complaint; and at such time and place there shall be afforded the person a reasonable opportunity to be informed as to the evidence introduced against him (including the right of cross-examination), and to be heard in person or by counsel and through witnesses, under such rules and regulations as the Secretary of Agriculture may prescribe. At any time prior to the close of the hearing the Secretary of Agriculture may amend the complaint; but in case of any amendment adding new provisions the hearing shall, on the request of the person, be adjourned for a period not exceeding fifteen days.

(b) Report of Secretary of Agriculture

If, after such hearing, the Secretary of Agriculture finds that the person has violated or is violating any provisions of the chapter or rules and regulations covered by the charges, he shall make a report in writing in which he shall state his findings as to the facts, and shall issue and cause to be served on the person an order requiring such person to cease and desist from continuing such violation. The testimony taken at the hearing shall be reduced to writing and filed in the records of the Department of Agriculture.

(c) Amendment of report

Until the record in such hearing has been filed in a court of appeals as provided in section 1600 of this title, the Secretary of Agriculture at any time, upon such notice and in such manner as he deems proper, but only after reasonable opportunity to the person to be heard, may amend or set aside the report or order, in whole or in part.

(d) Service

Complaints, orders, and other processes of the Secretary of Agriculture under this section may be served by anyone duly authorized by the Secretary of Agriculture, either (1) by delivering a copy thereof to the person to be served, or to a member of the partnership to be served, or to the president, secretary, or other executive officer or a director of the corporation to be served; or (2) by leaving a copy thereof at the principal office or place of business of such person, partnership, or corporation; or (3) by mailing a copy thereof by registered mail or by certified mail addressed to such person, partnership, or corporation at his or its last known principal office or place of business. The verified return by the person so serving said complaint, order, or other process setting forth the manner of said order shall be proof of the same, and the return postoffice receipt for said complaint, order, or other process mailed by registered mail or by certified mail as aforesaid shall be proof of the service of the same.

(Aug. 9, 1939, ch. 615, title IV, § 409, 53 Stat. 1287; June 25, 1948, ch. 646, § 32(a), 62 Stat. 991; May 24, 1949, ch. 139, § 127, 63 Stat. 107; Aug. 28, 1958, Pub. L. 85-791, § 24(a), 72 Stat. 949; June 11, 1960, Pub. L. 86-507, § 1(7), 74 Stat. 200.)

AMENDMENTS

1960—Subsec. (d). Pub. L. 86-507 substituted "mailing a copy thereof by registered mail or by certified mail" for "registering and mailing a copy thereof", and "mailed by registered mail or by certified mail" for "registered and mailed".

1958—Subsec. (c). Pub. L. 85-791 eliminated "a transcript of" preceding "the record".

CHANGE OF NAME

Act June 25, 1948, as amended by act May 24, 1949, substituted "court of appeals" for "circuit court of appeals" which appeared in subsec. (c) of this section.

EFFECTIVE DATE

See section 1610 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1600, 1601, 1602 of this title.

§ 1600. Appeal to court of appeals

An order made under section 1599 of this title shall be final and conclusive unless within thirty days after the service the person appeals to the court of appeals for the circuit in which such person resides or has his principal place of business by filing with the clerk of such court a written petition praying that the Secretary's order be set aside or modified in the manner stated in the petition, together with a bond in such sum as the court may determine, conditioned that such person will pay the costs of the proceedings if the court so directs.

The clerk of the court shall immediately cause a copy of the petition to be delivered to the Secretary, and the Secretary shall thereupon file in the court the record in such proceedings, as provided in section 2112 of title 28. If before such record is filed, the Secretary amends or sets aside his report or order, in whole or in part, the petitioner may amend the petition within such time as the court may determine, on notice to the Secretary.

At any time after such petition is filed the court, on application of the Secretary, may issue a temporary injunction restraining, to the extent it deems proper, the person and his officers, directors, agents, and employees from violating any of the provisions of the order pending the final determination of the appeal.

The evidence so taken or admitted and filed as aforesaid as a part of the record, shall be considered by the court as the evidence in the case. The proceedings in such cases in the court of appeals shall be made a preferred cause and shall be expedited in every way.

The court may affirm, modify, or set aside the order of the Secretary.

If the court determines that the just and proper disposition of the case requires the taking of additional evidence, the court shall order the hearing to be reopened for the taking of such evidence, in such manner and upon such terms and conditions as the court may deem proper. The Secretary may modify his

findings as to the facts, or make new findings, by reason of the additional evidence so taken, and he shall file such modified or new findings and his recommendations, if any, for the modification or setting aside of his order, with the return of such additional evidence.

If the court of appeals affirms or modifies the order of the Secretary, its decree shall operate as an injunction to restrain the person and his officers, directors, agents, and employees from violating the provisions of such order or such order as modified.

(Aug. 9, 1939, ch. 615, title IV, § 410, 53 Stat. 1287; June 25, 1948, ch. 646, § 32(a), 62 Stat. 991; May 24, 1949, ch. 139, § 127, 63 Stat. 107; Aug. 28, 1958, Pub. L. 85-791, § 24(b), 72 Stat. 949.)

AMENDMENTS

1958—Pub. L. 85-791 substituted, in the first sentence of the second paragraph, "thereupon file in the court the record in such proceedings as provided in section 2112 of title 28" for "forthwith prepare, certify, and file in the court a full and accurate transcript of the record in such proceedings, including the complaint, the evidence, and the report and order", substituted, in the second sentence of the second paragraph, "record" for "transcript", substituted in the third paragraph, "petition" for "transcript", and eliminated, in the fourth paragraph, ", duly certified" following "admitted".

CHANGE OF NAME

Act June 25, 1948, as amended by act May 24, 1949, substituted "court of appeals" for "circuit court of appeals," wherever appearing in this section.

EFFECTIVE DATE

See section 1610 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1599, 1601, 1602 of this title.

§ 1601. Enforcement of order

If any person against whom an order is issued under section 1599 of this title fails to obey the order, the Secretary of Agriculture, or the United States, by its Attorney General, may apply to the court of appeals of the United States, within the circuit where the person against whom the order was issued resides or has his principal place of business, for the enforcement of the order, and shall file the record in such proceedings, as provided in section 2112 of title 28. Upon such filing of the application the court shall cause notice thereof to be served upon the person against whom the order was issued. The evidence to be considered, the procedure to be followed, and the jurisdiction of the court shall be the same as provided in section 1600 of this title for applications to set aside or modify orders.

The proceedings in such cases shall be made a preferred cause and shall be expedited in every way.

(Aug. 9, 1939, ch. 615, title IV, § 411, 53 Stat. 1288; June 25, 1948, ch. 646, § 32(a), 62 Stat. 991; May 24, 1949, ch. 139, § 127, 63 Stat. 107; Aug. 28, 1958, Pub. L. 85-791, § 24(c), 72 Stat. 949.)

AMENDMENTS

1958—Pub. L. 85-791 substituted, in first sentence, "file the record in such proceedings as provided in section 2112 of title 28" for "certify and file with its application a full and accurate transcript of the record in such proceedings, including the complaint, the evidence, the report, and the order", and eliminated, in second sentence, "and transcript" following "application".

CHANGE OF NAME

Act June 25, 1948, as amended by act May 24, 1948, as amended by act May 24, 1949, substituted "court of appeals" for "circuit court of appeals" wherever appearing in this section.

EFFECTIVE DATE

See section 1610 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1602 of this title.

§ 1602. Separability of proceedings

The institution of any one of the proceedings provided for in sections 1595, 1596, 1599 to 1601 of this title shall not bar institution of any of the others, except that action shall not be instituted under both subsections 1596(a) and (b) of this title for the same cause of action. Nothing in this chapter shall be construed as requiring the Secretary of Agriculture to recommend prosecution, or institution of civil penalty proceedings, libel proceedings, cease-and-desist proceedings, or proceedings for the enforcement of a cease-and-desist order, for minor violations of this chapter or the rules and regulations made and promulgated thereunder whenever he believes that the public interest will be adequately served by suitable written notice or warning.

(Aug. 9, 1939, ch. 615, title IV, § 412, 53 Stat. 1288; July 9, 1956, ch. 520, § 3, 70 Stat. 508.)

AMENDMENTS

1956—Act July 9, 1956, inserted references to civil penalties as well as criminal penalties under section 1596 of this title.

EFFECTIVE DATE OF 1956 AMENDMENT

Amendments made by act July 9, 1956, applicable only with respect to violations occurring after July 9, 1956, see section 4 of act July 9, 1956, set out as a note under section 1596 of this title.

EFFECTIVE DATE

See section 1610 of this title.

§ 1603. Procedural powers; witness fees and mileage

(a) In carrying on the work herein authorized, the Secretary of Agriculture, or any officer or employee designated by him for such purpose, shall have power to hold hearings, administer oaths, sign and issue subpenas, examine witnesses, take depositions, and require the production of books, records, accounts, memoranda, and papers, and have access to office and warehouse premises. Upon refusal by any person to appear, testify, or produce pertinent books, records, accounts, memoranda, and papers in response to a subpena, or to permit access to premises, the proper United States district court shall have power to compel obedience thereto.

(b) Witnesses summoned before the Secretary or any officer or employee designated by him shall be paid the same fees and mileage that are paid witnesses in the courts of the United

States, and witnesses whose depositions are taken and the persons taking the same shall severally be entitled to the same fees as are paid for like service in the courts of the United States.

(Aug. 9, 1939, ch. 615, title IV, § 413, 53 Stat. 1289.)

EFFECTIVE DATE

See section 1610 of this title.

CROSS REFERENCES

Fees of witnesses, see section 1821 et seq. of Title 28, Judiciary and Judicial Procedure.

§ 1604. Publication

After judgment by the court, or the issuance of a cease and desist order, in any case arising under this chapter, notice thereof shall be given by publication in such manner as may be prescribed in the rules and regulations made and promulgated under this chapter.

(Aug. 9, 1939, ch. 615, title IV, § 414, 52 Stat. 1289.)

EFFECTIVE DATE

See section 1610 of this title.

§ 1605. Authorization of appropriations

(a) There is authorized to be appropriated, out of any money in the Treasury not otherwise appropriated, such sums as may be necessary for administering this chapter.

(b) Funds appropriated for carrying into effect the purpose of this chapter shall be available for allotment by the Secretary of Agriculture to the bureaus and offices of the Department of Agriculture and for transfer to other departments and agencies of the Government which the Secretary of Agriculture may call upon to assist or cooperate in carrying out such purposes or for services rendered or to be rendered in connection therewith.

Appropriations made under this authorization, within the limit prescribed in such appropriations, may be expended for the share of the United States in the expense of the International Seed Testing Congress in carrying out plans for correlating the work of the various adhering governments on problems relating to seed analyses or other subjects which the Congress may determine to be necessary in the interest of international seed trade.

(Aug. 9, 1939, ch. 615, title IV, § 415, 53 Stat. 1289; Sept. 21, 1944, ch. 412, title VII, § 701(b), 58 Stat. 741.)

AMENDMENTS

1944—Act Sept. 21, 1944, added last par.

EFFECTIVE DATE

See section 1610 of this title.

§ 1606. Authorization of expenditures

The Secretary of Agriculture is authorized to make such expenditures for rent, outside of the District of Columbia, printing, binding, telegrams, telephones, books of reference, publications, furniture, stationery, office and laboratory equipment, travel, and other supplies, including reporting services, such research necessary to develop methods of processing, bulking, blending, sampling, testing, and merchandising seeds necessary to the administration of this chapter and other necessary expenses in the District of Columbia and elsewhere, and as may be appropriated for by the Congress.

(Aug. 9, 1939, ch. 615, title IV, § 416, 53 Stat. 1289.)

EFFECTIVE DATE

See section 1610 of this title.

§ 1607. Cooperation with other governmental agencies

The Secretary of Agriculture is authorized to cooperate with any other department or agency of the Federal Government; or with any State, Territory, District, or possession, or department, agency, or political subdivision thereof; or with any producing, trading, or consuming organization, whether operating in one or more jurisdictions, in carrying out the provisions of this chapter.

(Aug. 9, 1939, ch. 615, title IV, § 417, 53 Stat. 1289.)

EFFECTIVE DATE

See section 1610 of this title.

§ 1608. Separability of provisions

If any provision of this chapter, or the application thereof to any person or circumstance, is held invalid, the remainder of the chapter, and the application of such provisions to other persons or circumstances, shall not be affected thereby.

(Aug. 9, 1939, ch. 615, title IV, § 418, 53 Stat. 1290.)

EFFECTIVE DATE

See section 1610 of this title.

§ 1609. Repeals

Sections 111 to 116 of this title are repealed on the one hundred and eightieth day after August 9, 1939: *Provided, however,* That the notices with respect to imported alfalfa and red clover seed promulgated by the Secretary of Agriculture under the authority of sections 111 to 116 of this title, and in effect on August 9, 1939, shall remain with the same full force and effect as if promulgated under this chapter.

(Aug. 9, 1939, ch. 615, title IV, § 419, 53 Stat. 1290.)

EFFECTIVE DATE

See section 1610 of this title.

§ 1610. Effective date

This chapter shall take effect as follows: As to agricultural seeds, and the importation of vegetable seeds, on the one hundred and eightieth day after August 9, 1939; as to vegetable seeds in interstate commerce, one year after August 9, 1939; and as to sections 1591 to 1593 of this title, on August 9, 1939.

(Aug. 9, 1939, ch. 615, title IV, § 420, 53 Stat. 1290.)

SUBCHAPTER V—SALE OF UNCERTIFIED SEED OF PROTECTED VARIETY

§ 1611. Illegal sales of uncertified seed

It shall be unlawful in the United States or in interstate or foreign commerce to sell by variety name seed not certified by an official seed certifying agency when it is a variety for which a certificate of plant variety protection under the Plant Variety Protection Act [7 U.S.C. 2321 et seq.] specifies sale only as a class of certified seed: *Provided,* That seed from a certified lot may be labeled as to variety name when used in a mixture by, or with the approval of, the owner of the variety.

(Aug. 9, 1939, ch. 615, title V, § 501, as added Dec. 24, 1970, Pub. L. 91-577, title III, § 142(a), 84 Stat. 1558.)

REFERENCES IN TEXT

The Plant Variety Protection Act, referred to in text, is Pub. L. 91-577, Dec. 24, 1970, 84 Stat. 1542, and is classified generally to chapter 57 (§ 2321 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2321 of this title and Tables volume.

EFFECTIVE DATE

Section effective Dec. 24, 1970, see section 141 of Pub. L. 91-577, set out as a note under section 2321 of this title.

CHAPTER 38—DISTRIBUTION AND MARKETING OF AGRICULTURAL PRODUCTS

Sec.
1621. Congressional declaration of purpose; use of existing facilities; cooperation with States.
1622. Duties of Secretary relating to agricultural products.
(a) Determination of methods of processing, packaging, marketing, etc.; publication of results.
(b) Determination of costs.
(c) Improvement of standards of quality, condition, etc.
(d) Elimination of artificial barriers to free movement.
(e) Development of new markets.
(f) Increasing consumer education.
(g) Collection and dissemination of marketing information.
(h) Inspection and certification of products in interstate commerce; certificates as evidence; penalties.
(i) Development of facilities for assembling, processing, transporting, etc.
(j) Improvement of transportation facilities and rates.
(k) Collection and dissemination of marketing statistics.
(l) Development of procurement standards and specifications.
(m) Promotion of research for handling, storing, preserving, etc.
(n) General research, services, and activities.
1623. Authorization of appropriations; allotments to States.
1623a. Minimum sum for contracting.
1624. Cooperation with Government and State agencies, private research organizations, etc.; rules and regulations.
1625. Transfer and consolidation of functions, powers, bureaus, etc.
1626. Definitions.
1627. Appointment of personnel; compensation; employment of specialists.
1628. Repealed.
1629. Establishment of committees to assist in research and service programs.
1630. Omitted.

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in title 21 section 1033

§ 1621. Congressional declaration of purpose; use of existing facilities; cooperation with States

The Congress declares that a sound, efficient, and privately operated system for distributing and marketing agricultural products is essential to a prosperous agriculture and is indispensable to the maintenance of full employment and to the welfare, prosperity, and health of the Nation. It is further declared to be the policy of Congress to promote through research, study, experimentation, and through cooperation among Federal and State agencies, farm organizations, and private industry a scientific approach to the problems of marketing, transportation, and distribution of agricultural products similar to the scientific methods which have been utilized so successfully during the past eighty-four years in connection with the production of agricultural products so that such products capable of being produced in abundance may be marketed in an orderly manner and efficiently distributed. In order to attain these objectives, it is the intent of Congress to provide for (1) continuous research to improve the marketing, handling, storage, processing, transportation, and distribution of agricultural products; (2) cooperation among Federal and State agencies, producers, industry organizations, and others in the development and effectuation of research and marketing programs to improve the distribution processes; (3) an integrated administration of all laws enacted by Congress to aid the distribution of agricultural products through research, market aids and services, and regulatory activities, to the end that marketing methods and facilities may be improved, that distribution costs may be reduced and the price spread between the producer and consumer may be narrowed, that dietary and nutritional standards may be improved, that new and wider markets for American agricultural products may be developed, both in the United States and in other countries, with a view to making it possible for the full production of American farms to be disposed of usefully, economically, profitably, and in an orderly manner. In effectuating the purposes of this chapter, maximum use shall be made of existing research facilities owned or controlled by the Federal Government or by State agricultural experiment stations and of the facilities of the Federal and State extension services. To the maximum extent practicable marketing research work done under this chapter in cooperation with the States shall be done in cooperation with the State agricultural experiment stations; marketing educational and demonstrational work done under this chapter in cooperation with the States shall be done in cooperation with the State agricultural extension service; market information, inspection, regulatory work and other marketing service done under this chapter in cooperation with the State agencies shall be done in cooperation with the

State departments of agriculture, and State bureaus and departments of markets.

(Aug. 14, 1946, ch. 966, title II, § 202, 60 Stat. 1087.)

SHORT TITLE

Section 201 of act Aug. 14, 1946, provided that: "This title [enacting this chapter] may be cited as the 'Agricultural Marketing Act of 1946'."

TRANSFER OF FUNCTIONS

All functions of all officers, agencies and employees of the Department of Agriculture were transferred, with certain exceptions, to the Secretary of Agriculture by 1953 Reorg. Plan No. 2, § 1, eff. June 4, 1953, 18 F.R. 3219, 67 Stat. 633, set out as a note under section 2201 of this title.

NATIONAL COMMISSION ON FOOD MARKETING

Pub. L. 88-354, July 3, 1964, 78 Stat. 269, as amended by Pub. L. 89-20, May 15, 1965, 79 Stat. 111, provided for the establishment of a bipartisan National Commission on Food Marketing composed of fifteen members, five from the Senate, five from the House of Representatives and five from outside the federal government, to study and appraise the marketing structure of the food industry and to make a final report of its findings and conclusions to the President and to the Congress by July 1, 1966. The Commission ceased to exist ninety days after submission of its final report.

CROSS REFERENCES

Marketing of agricultural products, cooperation with state agencies in administration and enforcement of laws relating to, see section 450 of this title.

Poultry and poultry products inspection, see section 451 et seq. of Title 21, Food and Drugs.

SECTION REFERRED TO IN D.C. CODE

This section is referred to in sections 31-1607, 31-1718 of the District of Columbia Code.

§ 1622. Duties of Secretary relating to agricultural products

The Secretary of Agriculture is directed and authorized:

(a) Determination of methods of processing, packaging, marketing, etc.; publication of results

To conduct, assist, and foster research, investigation, and experimentation to determine the best methods of processing, preparation for market, packaging, handling, transporting, storing, distributing, and marketing agricultural products: *Provided,* That the results of such research shall be made available to the public for the purpose of expanding the use of American agricultural products in such manner as the Secretary of Agriculture may determine.

(b) Determination of costs

To determine costs of marketing agricultural products in their various forms and through the various channels and to foster and assist in the development and establishment of more efficient marketing methods (including analyses of methods and proposed methods), practices, and facilities, for the purpose of bringing about more efficient and orderly marketing, and reducing the price spread between the producer and the consumer.

(c) Improvement of standards of quality, condition, etc.

To develop and improve standards of quality, condition, quantity, grade, and packaging, and recommend and demonstrate such standards in order to encourage uniformity and consistency in commercial practices.

(d) Elimination of artificial barriers to free movement

To conduct, assist, foster, and direct studies and informational programs designed to eliminate artificial barriers to the free movement of agricultural products.

(e) Development of new markets

To foster and assist in the development of new or expanded markets (domestic and foreign) and new and expanded uses and in the moving of larger quantities of agricultural products through the private marketing system to consumers in the United States and abroad.

(f) Increasing consumer education

To conduct and cooperate in consumer education for the more effective utilization and greater consumption of agricultural products: *Provided,* That no money appropriated under the authority of this chapter shall be used to pay for newspaper or periodical advertising space or radio time in carrying out the purposes of this section and subsection (e) of this section.

(g) Collection and dissemination of marketing information

To collect and disseminate marketing information, including adequate outlook information on a market-area basis, for the purpose of anticipating and meeting consumer requirements, aiding in the maintenance of farm income, and bringing about a balance between production and utilization of agricultural products.

(h) Inspection and certification of products in interstate commerce; certificates as evidence; penalties

To inspect, certify, and identify the class, quality, quantity, and condition of agricultural products when shipped or received in interstate commerce, under such rules and regulations as the Secretary of Agriculture may prescribe, including assessment and collection of such fees as will be reasonable and as nearly as may be to cover the cost of the service rendered, to the end that agricultural products may be marketed to the best advantage, that trading may be facilitated, and that consumers may be able to obtain the quality product which they desire, except that no person shall be required to use the service authorized by this subsection. Any official certificate issued under the authority of this subsection shall be received by all officers and all courts of the United States as prima facie evidence of the truth of the statements therein contained. Whoever knowingly shall falsely make, issue, alter, forge, or counterfeit any official certificate, memorandum, mark, or other identification, or device for making such mark or identification, with respect to inspection, class, grade, quality, size, quantity, or condition, issued or authorized under this section or knowingly cause or procure, or aid, assist in, or be a party to, such false making, issuing, altering, forging, or counterfeiting, or whoever

knowingly shall possess, without promptly notifying the Secretary of Agriculture or his representative, utter, publish, or use as true, or cause to be uttered, published, or used as true, any such falsely made, altered, forged, or counterfeited official certificate, memorandum, mark, identification, or device, or whoever knowingly represents that an agricultural product has been officially inspected or graded (by an authorized inspector or grader) under the authority of this section when such commodity has in fact not been so graded or inspected shall be fined not more than $1,000 or imprisoned not more than one year, or both.

(i) Development of facilities for assembling, processing, transporting, etc.

To determine the needs and develop or assist in the development of plans for efficient facilities and methods of operating such facilities for the proper assembly, processing, transportation, storage, distribution, and handling of agricultural products.

(j) Improvement of transportation facilities and rates

To assist in improving transportation services and facilities and in obtaining equitable and reasonable transportation rates and services and adequate transportation facilities for agricultural products and farm supplies by making complaint or petition to the Interstate Commerce Commission, the Maritime Commission, the Civil Aeronautics Board, or other Federal or State transportation regulatory body with respect to rates, charges, tariffs, practices, and services, or by working directly with individual carriers or groups of carriers.

(k) Collection and dissemination of marketing statistics

To collect, tabulate, and disseminate statistics on marketing agricultural products, including, but not restricted to statistics on market supplies, storage stocks, quantity, quality, and condition of such products in various positions in the marketing channel, utilization of such products, and shipments and unloads thereof.

(*l*) Development of procurement standards and specifications

To develop and promulgate, for the use and at the request of any Federal agency or State, procurement standards and specifications for agricultural products, and submit such standards and specifications to such agency or State for use or adoption for procurement purposes.

(m) Promotion of research for handling, storing, preserving, etc.

To conduct, assist, encourage, and promote research, investigation, and experimentation to determine the most efficient and practical means, methods, and processes for the handling, storing, preserving, protecting, processing, and distributing of agricultural commodities to the end that such commodities may be marketed in an orderly manner and to the best interest of the producers thereof.

(n) General research, services, and activities

To conduct such other research and services and to perform such other activities as will facilitate the marketing, distribution, processing, and utilization of agricultural products through commercial channels.

(Aug. 14, 1946, ch. 966, title II, § 203, 60 Stat. 1087; Aug. 9, 1955, ch. 632, § 1, 69 Stat. 553.)

AMENDMENTS

1955—Subsec. (h). Act Aug. 9, 1955, added sentence to provide penalties for forgery or alteration of inspection certificates, unauthorized use of official grade marks or designations, and false or deceptive reference to United States grade standards or services.

TRANSFER OF FUNCTIONS

Section 304 of 1961 Reorg. Plan No. 7, eff. Aug. 12, 1961, 26 F.R. 7315, 75 Stat. 840, set out in the Appendix to Title 5, Government Organization and Employees, abolished the Federal Maritime Board, including the offices of the members of the Board. Functions of the Board were transferred either to the Federal Maritime Commission or to the Secretary of Commerce by sections 103 and 202 of 1961 Reorg. Plan No. 7.

The United States Maritime Commission was abolished by 1950 Reorg. Plan No. 21, eff. May 24, 1950, 15 F.R. 3178, 64 Stat. 1273, set out in the Appendix of Title 5, Government Organization and Employees, which transferred part of its functions and part of the functions of its Chairman to the Federal Maritime Board and the Chairman thereof, such Board having created by that Plan as an agency within the Department of Commerce with an independent status in some respects, and transferred the remainder of such Commission's functions and the functions of its Chairman to the Secretary of Commerce, with power vested in the Secretary to authorize their performance by the Maritime Administrator, the head of the Maritime Administration, which likewise was established by the Plan in the Department of Commerce with the provision that the chairman of said Federal Maritime Board should, ex officio, be such Administrator.

All executive and administrative functions of the Maritime Commission were transferred to the Chairman of the Maritime Commission by 1949 Reorg. Plan No. 6, eff. Aug. 20, 1949, 14 F.R. 5228, 63 Stat. 1069, set out in the Appendix to Title 5.

All functions, powers, and duties of the Civil Aeronautics Board and of the chairman, members, officers, and offices under titles VI and VII of the Federal Aviation Act of 1958, as amended, [49 U.S.C. §§ 1421 et seq. and 1441 et seq.] were transferred to the National Transportation Safety Board by Pub. L. 89-670, § 6, Oct. 15, 1966, 80 Stat. 937. See section 1655(d) of Title 49, Transportation.

EXCEPTION FROM TRANSFER OF FUNCTIONS

Functions of the Civil Aeronautics Board, referred to in this section, were not included in the functions of officers, agencies and employees of the Department of Commerce which were transferred to the Secretary of Commerce by 1950 Reorg. Plan No. 5, § 1, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1263, set out in the Appendix to Title 5, Government Organization and Employees.

CROSS REFERENCES

Investigation of quality and condition of produce received in interstate commerce, see section 499n of this title.

Misdemeanor defined, see section 1 of Title 18, Crimes and Criminal Procedure.

SECTION REFERRED TO IN D.C. CODE

This section is referred to in sections 31-1607, 31-1718 of the District of Columbia Code.

§ 1623. Authorization of appropriations; allotments to States

(a) In order to conduct research and service work in connection with the preparation for market, processing, packaging, handling, storing, transporting, distributing, and marketing of agricultural products as authorized by this

chapter, there is hereby authorized to be appropriated the following sums:

(1) $2,500,000 for the fiscal year ending June 30, 1947, and each subsequent fiscal year.

(2) An additional $2,500,000 for the fiscal year ending June 30, 1948, and each subsequent fiscal year.

(3) An additional $5,000,000 for the fiscal year ending June 30, 1949, and each subsequent fiscal year.

(4) An additional $5,000,000 for the fiscal year ending June 30, 1950, and each subsequent fiscal year.

(5) An additional $5,000,000 for the fiscal year ending June 30, 1951, and each subsequent fiscal year.

(6) In addition to the foregoing, such additional funds beginning with the fiscal year ending June 30, 1952, and thereafter, as the Congress may deem necessary.

Such sums appropriated in pursuance of this chapter shall be in addition to, and not in substitution for, sums appropriated or otherwise made available to the Department of Agriculture.

(b) The Secretary of Agriculture is authorized to make available from such funds such sums as he may deem appropriate for allotment to State departments of agriculture, State bureaus and departments of markets, State agricultural experiment stations, and other appropriate State agencies for cooperative projects in marketing service and in marketing research to effectuate the purposes of this chapter: *Provided,* That no such allotment and no payment under any such allotment shall be made for any fiscal year to any State agency in excess of the amount which such State agency makes available out of its own funds for such research. The funds which State agencies are required to make available in order to qualify for such an allotment shall be in addition to any funds now available to such agencies for marketing services and for marketing research. The allotments authorized under this section shall be made to the agency or agencies best equipped and qualified to conduct the specific project to be undertaken. Such allotments shall be covered by cooperative agreements between the Secretary of Agriculture and the cooperating agency and shall include appropriate provisions for preventing duplication or overlapping of work within the State or States cooperating. Should duplication or overlapping occur subsequent to approval of a cooperative project or allotment of funds, the Secretary of Agriculture is authorized and directed to withhold unexpended balances on such projects notwithstanding the prior approval thereof.

(Aug. 14, 1946, ch. 966, title II, § 204, 60 Stat. 1089.)

FISCAL YEAR TRANSITION PERIOD OF JULY 1, 1976, THROUGH SEPTEMBER 30, 1976, DEEMED FISCAL YEAR

Fiscal year transition period of July 1, 1976, through Sept. 30, 1976, deemed fiscal year for purposes of subsec. (b) of this section, see section 201(2) of Pub. L. 94-274, set out as a note under section 343 of this title.

SECTION REFERRED TO IN D.C. CODE

This section is referred to in sections 31-1607, 31-1718 of the District of Columbia Code.

§ 1623a. Minimum sum for contracting

Not less than $1,500,000 of the appropriations of the Department of Agriculture for research and service work authorized by this chapter and sections 427 and 427i(e) of this title, and sections 1891 and 1892 of title 42, shall be available for contracting in accordance with this chapter and sections 427 and 427i(e) of this title, and sections 1891, 1892 of title 42.

(Pub. L. 94-351, title VI, § 603, July 12, 1976, 90 Stat. 868.)

CODIFICATION

Section was enacted as a part of the Department of Agriculture and Related Agencies Appropriation Act, 1977, and not as a part of the Agricultural Marketing Act of 1946 which comprises this chapter.

SIMILAR PROVISIONS

Similar provisions were contained in the following prior appropriation acts:

Oct. 21, 1975, Pub. L. 94-122, title VI, § 605, 89 Stat. 667.

Dec. 31, 1974, Pub. L. 93-563, title V, § 505, 88 Stat. 1842.

Oct. 24, 1973, Pub. L. 93-135, title V, § 506, 87 Stat. 490.

Aug. 22, 1972, Pub. L. 92-399, title V, § 506, 86 Stat. 611.

Aug. 10, 1971, Pub. L. 92-73, title V, § 506, 85 Stat. 201.

Dec. 22, 1970, Pub. L. 91-566, title V, § 506, 84 Stat. 1496.

Nov. 26, 1969, Pub. L. 91-127, title V, § 506, 83 Stat. 260.

Aug. 8, 1968, Pub. L. 90-463, title V, § 506, 82 Stat. 653.

Oct. 24, 1967, Pub. L. 90-113, title V, § 506, 81 Stat. 335.

Sept. 7, 1966, Pub. L. 89-556, title V, § 506, 80 Stat. 704.

Nov. 2, 1965, Pub. L. 89-316, title V, § 506, 79 Stat. 1179.

Sept. 2, 1964, Pub. L. 88-573, title V, § 506, 78 Stat. 876.

Dec. 30, 1963, Pub. L. 88-250, title VI, § 606, 77 Stat. 833.

Oct. 24, 1962, Pub. L. 87-879, title VI, § 606, 76 Stat. 1215.

July 26, 1961, Pub. L. 87-112, title V, § 506, 75 Stat. 241.

June 29, 1960, Pub. L. 86-532, title IV, § 406, 74 Stat. 244.

July 8, 1959, Pub. L. 86-80, title IV, § 406, 73 Stat. 180.

June 13, 1958, Pub. L. 86-459, title IV, § 406, 72 Stat. 299.

Aug. 2, 1957, Pub. L. 85-118, title V, § 506, 71 Stat. 340.

June 4, 1956, ch. 355, Title V, § 506, 70 Stat. 241.

May 23, 1955, ch. 43, title V, § 506, 69 Stat. 63.

June 29, 1954, ch. 409, title V, § 506, 68 Stat. 319.

SECTION REFERRED TO IN D.C. CODE

This section is referred to in sections 31-1607, 31-1718 of the District of Columbia Code.

§ 1624. Cooperation with Government and State agencies, private research organizations, etc.; rules and regulations

(a) In carrying out the provisions of this chapter, the Secretary of Agriculture may cooperate with other branches of the Government,

State agencies, private research organizations, purchasing and consuming organizations, boards of trade, chambers of commerce, other associations of business or trade organizations, transportation and storage agencies and organizations, or other persons or corporations engaged in the production, transportation, storing, processing, marketing, and distribution of agricultural products whether operating in one or more jurisdictions. The Secretary of Agriculture shall have authority to enter into contracts and agreements under the terms of regulations promulgated by him with States and agencies of States, private firms, institutions, and individuals for the purpose of conducting research and service work, making and compiling reports and surveys, and carrying out other functions relating thereto when in his judgment the services or functions to be performed will be carried out more effectively, more rapidly, or at less cost than if performed by the Department of Agriculture. Contracts under this section may be made for work to be performed within a period not more than four years from the date of any such contract, and advance, progress, or other payments may be made. The provisions of section 529 of title 31 and section 5 of title 41 shall not be applicable to contracts or agreements made under the authority of this section. Any unexpended balances of appropriations obligated by contracts as authorized by this section may, notwithstanding the provisions of section 713 of title 31, remain upon the books of the Treasury for not more than five fiscal years before being carried to the surplus fund and covered into the Treasury. Any contract made pursuant to this section shall contain requirements making the result of such research and investigations available to the public by such means as the Secretary of Agriculture shall determine.

(b) The Secretary of Agriculture shall promulgate such orders, rules, and regulations as he deems necessary to carry out the provisions of this chapter.

(Aug. 14, 1946, ch. 966, title II, § 205, 60 Stat. 1090; Aug. 30, 1954, ch. 1076, § 1(7), 68 Stat. 966.)

REFERENCES IN TEXT

Section 713 of title 31, referred to in subsec. (a), was repealed by act July 6, 1949, ch. 299, § 3, 63 Stat. 407.

AMENDMENTS

1954—Subsec. (b). Act Aug. 30, 1954, repealed former second sentence requiring the Secretary of Agriculture to include in his annual report to Congress a complete statement of research work being performed under contracts or cooperative agreements under this chapter.

CROSS REFERENCES

Marketing of agricultural products, cooperation with state agencies in administration and enforcement of laws relating to, see section 450 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 42 section 418.

SECTION REFERRED TO IN D.C. CODE

This section is referred to in sections 31-1607, 31-1718 of the District of Columbia Code.

§ 1625. Transfer and consolidation of functions, powers, bureaus, etc.

In order to facilitate administration and to increase the effectiveness of the marketing research, service, and regulatory work of the Department of Agriculture to the fullest extent practicable, the Secretary of Agriculture is authorized, notwithstanding any other provisions of law, to transfer, group, coordinate, and consolidate the functions, powers, duties, and authorities of each and every agency, division, bureau, service, section, or other administrative unit in the Department of Agriculture primarily concerned with research, service, or regulatory activities in connection with the marketing, transportation, storage, processing, distribution of, or service or regulatory activities in connection with, the utilization of, agricultural products, into a single administrative agency. In making such changes as may be necessary to carry out effectively the purposes of this chapter, the records, property, personnel, and funds of such agencies, divisions, bureaus, services, sections, or other administrative units in the Department of Agriculture affected are authorized to be transferred to and used by such administrative agency to which the transfer may be made, but such unexpended balances of appropriations so transferred shall be used only for the purposes for which such appropriations were made.

(Aug. 14, 1946, ch. 966, title II, § 206, 60 Stat. 1090.)

SECTION REFERRED TO IN D.C. CODE

This section is referred to in sections 31-1607, 31-1718 of the District of Columbia Code.

§ 1626. Definitions

When used in this chapter, the term "agricultural products" includes agricultural, horticultural, viticultural, and dairy products, livestock and poultry, bees, forest products, fish and shellfish, and any products thereof, including processed and manufactured products, and any and all products raised or produced on farms and any processed or manufactured product thereof, and the term "State" when used in this chapter shall include the Virgin Islands and Guam.

(Aug. 14, 1946, ch. 966, title II, § 207, 60 Stat. 1091; June 23, 1972, Pub. L. 92-318, title V, § 506(f), 86 Stat. 351.)

AMENDMENTS

1972—Pub. L. 92-318 inserted definition of term "State" as including Virgin Islands and Guam.

EFFECTIVE DATE OF 1972 AMENDMENT

Amendment by Pub. L. 92-318 effective after June 30, 1970, see section 506(n) of Pub. L. 92-318, set out as a note under section 326a of this title.

SECTION REFERRED TO IN D.C. CODE

This section is referred to in sections 31-1607, 31-1718 of the District of Columbia Code.

§ 1627. Appointment of personnel; compensation; employment of specialists

The Secretary of Agriculture shall have the power to appoint, remove, and fix, in accor-

dance with existing law, the compensation of such officers and employees, and to make such expenditures as he deems necessary, including expenditures for rent outside the District of Columbia, travel, supplies, books, equipment, and such other expenditures as may be necessary to the administration of this chapter: *Provided*, That the Secretary of Agriculture may appoint any technically qualified person, firm, or organization by contract or otherwise on a temporary basis and for a term not to exceed six months in any fiscal year to perform research, inspection, classification, technical, or other special services, without regard to the civil-service laws.

(Aug. 14, 1946, ch. 966, title II, § 208, 60 Stat. 1091.)

REFERENCES IN TEXT

The civil-service laws, referred to in text, are set forth in Title 5, Government Organization and Employees. See, particularly, section 3301 et seq. of that Title.

CODIFICATION

Provisions that authorized the Secretary of Agriculture to "fix the compensation" of any technically qualified person, firm, or organization by contract or otherwise on a temporary basis and for a term not to exceed six months in any fiscal year to perform research, inspection, classification, technical or other special services, without regard to the "Classification Act of 1923, as amended" were omitted as obsolete. Sections 1202 and 1204 of the Classification Act of 1949, 63 Stat. 972, 973 repealed the 1923 Act and all laws or parts of laws inconsistent with the 1949 Act. While section 1106(a) of the 1949 Act provided that references in other laws to the 1923 Act should be held and considered to mean the 1949 Act, it did not have the effect of continuing the exceptions contained in this subsection because of section 1106(b) which provided that the application of the 1949 Act to any position, officer, or employee shall not be affected by section 1106(a). The Classification Act of 1949 was repealed by Pub. L. 89-554, § 8(a), Sept. 6, 1966, 80 Stat. 632 (of which section 1 revised and enacted Title 5, U.S.C., into law). Section 5102 of Title 5, now contains the applicability provisions of the 1949 Act, and section 5103 of Title 5 authorizes the Civil Service Commission to determine the applicability to specific positions and employees.

SECTION REFERRED TO IN D.C. CODE

This section is referred to in sections 31-1607, 31-1718 of the District of Columbia Code.

§ 1628. Repealed. Pub. L. 93-86, § 2, Aug. 10, 1973, 87 Stat. 246

Section, acts Aug. 14, 1946, ch. 966, title III, § 301, 60 Stat. 1091; Dec. 29, 1967, Pub. L. 90-233, 81 Stat. 752, provided for the establishment and staffing of a national advisory committee to aid in implementing the research and service work authorized under this chapter, sections 427 and 427i of this title and former sections 427h and 427j of this title, and set forth the functions of such committee.

§ 1629. Establishment of committees to assist in research and service programs

In the furtherance of the research and service work authorized by sections 427 and 427i of this title and this chapter, the Secretary of Agriculture may, in addition to the national advisory committee, establish appropriate committees, including representatives of producers, industry, government and science, to assist in effectuating specific research and service programs.

(Aug. 14, 1946, ch. 966, title III, § 302, 60 Stat. 1091.)

REFERENCES IN TEXT

The national advisory committee, referred to in text, was established by former section 1628 of this title, which was repealed by Pub. L. 93-86, § 2, Aug. 10, 1973, 87 Stat. 246.

CODIFICATION

Section was not enacted as a part of the Agricultural Marketing Act of 1946 which comprises this chapter.

SECTION REFERRED TO IN D.C. CODE

This section is referred to in sections 31-1607, 31-1718 of the District of Columbia Code.

§ 1630. Omitted

CODIFICATION

Section, act June 4, 1956, ch. 355, title V, § 508, 70 Stat. 241, which provided for availability of appropriations for committee expenses in effectuating research and service work, was from the Department of Agriculture and Farm Credit Administration Appropriation Act, 1957, and was not repeated in subsequent appropriation acts.

SIMILAR PROVISIONS

Similar provisions were contained in the following prior appropriation acts:
May 23, 1955, ch. 43, title V, § 509, 69 Stat. 64.
June 29, 1954, ch. 409, title V, § 509, 68 Stat. 319.

CHAPTER 39—STABILIZATION OF INTERNATIONAL WHEAT MARKET

Sec.
1641. Availability of wheat for export; utilization of funds and facilities; prices; authorization of appropriations.
1642. Enforcement by President.
(a) Rules or regulations.
(b) Reports; keeping and examination of books and records.
(c) Penalty for violation.
(d) Forfeiture for excessive exports or imports.
(e) Jurisdiction and venue of actions; remedies, fines, and forfeitures as additional.
(f) Delegation of authority.
(g) Authorization of appropriations.
(h) Use of funds.
(i) Exclusion from Administrative Procedure Act.
(j) Definition of "person".

§ 1641. Availability of wheat for export; utilization of funds and facilities; prices; authorization of appropriations

The President is authorized, acting through the Commodity Credit Corporation, to make available or cause to be made available, notwithstanding the provisions of any other law, such quantities of wheat and wheat-flour and at such prices as are necessary to exercise the rights, obtain the benefits, and fulfill the obligations of the United States under the International Wheat Agreement of 1949 signed by Australia, Canada, France, the United States, Uruguay, and certain wheat importing countries, along with the agreements signed by the United States and certain other countries revis-

ing and renewing such agreement of 1949 for periods through July 31, 1965 (hereinafter collectively called the "International Wheat Agreement"). Nothing in this chapter shall be construed to preclude the Secretary of Agriculture, in carrying out programs to encourage the exportation of agricultural commodities and products thereof pursuant to section 612c of this title, from utilizing funds available for such programs in such manner as, either separately or jointly with the Commodity Credit Corporation, to exercise the rights, obtain the benefits, and fulfill all or any part of the obligations of the United States under the International Wheat Agreement or to preclude the Commodity Credit Corporation in otherwise carrying out wheat and wheat-flour export programs as authorized by law. Nothing contained in this chapter shall limit the duty of the Commodity Credit Corporation to the maximum extent practicable consistent with the fulfillment of the Corporation's purposes and the effective and efficient conduct of its business to utilize the usual and customary channels, facilities, and arrangements of trade and commerce in making available or causing to be made available wheat and wheat-flour under this chapter. The pricing provisions of section 1510(e) of title 22 and section 713a-9 of title 15, shall not be applicable to domestic wheat and wheat-flour supplied to countries which are parties to the International Wheat Agreement and credited to their guaranteed purchases thereunder on and after August 1, 1949, and up to and including June 30, 1950. Where prices in excess of the International Wheat Agreement prices have been paid for such wheat and wheat-flour financed by the Economic Cooperation Administration on or after August 1, 1949, and up to and including June 30, 1950, the Secretary of Agriculture or Commodity Credit Corporation is authorized to reimburse the Economic Cooperation Administration for such excess amounts. Funds realized from such reimbursement shall revert to the respective appropriation or appropriations from which funds were expended for the procurement of such wheat and wheat-flour. There are authorized to be appropriated such sums as may be necessary to make payments to the Commodity Credit Corporation of its estimated or actual net costs of carrying out its functions hereunder. Such net costs in connection with the International Wheat Agreement, 1959, shall include those with respect to all transactions which qualify as commercial purchases (as defined in such agreement) from the United States by importing member countries. Such net costs in connection with the International Wheat Agreement, 1962, shall include those with respect to all transactions which qualify as commercial purchases (as defined in such agreement) from the United States by member and provisional member importing countries, including transactions entered into prior to the deposit of instruments of acceptance or accession by any of the countries involved, if the loading period is not earlier than the date the agreement enters into force. The Commodity Credit Corporation is authorized in carrying out its functions under this chapter to utilize, in advance of such appropriations or payments, any assets available to it.

(Oct. 27, 1949, ch. 772, § 2, 63 Stat. 945; Aug. 1, 1953, ch. 306, § 1, 67 Stat. 358; Aug. 3, 1956, ch. 911, § 1, 70 Stat. 966; Sept. 21, 1959, Pub. L. 86-336, 73 Stat. 600; Sept. 5, 1962, Pub. L. 87-632, 76 Stat. 434.)

REFERENCES IN TEXT

Section 1510 of title 22, referred to in the text, was repealed by act Aug. 26, 1954, ch. 937, title V, § 542(a), 68 Stat. 861.

AMENDMENTS

1962—Pub. L. 87-632 extended the authority of the President to act under wheat agreements revising and renewing the Agreement of 1949 for periods through July 31, 1965, included within the net costs connected with the International Wheat Agreement of 1962, those with respect to commercial purchases from the United States by member and provisional member importing countries, including transactions entered into prior to deposit of instruments of acceptance or accession, if the loading period is not earlier than the date the agreement enters force.

1959—Pub. L. 86-336 authorized this chapter to be used to implement the 1959 agreement and provided that net costs in connection with the 1959 agreement include those with respect to all transactions which qualify as commercial purchases from the United States by importing member countries.

1956—Act Aug. 3, 1956, permitted this chapter to be used to implement the new agreement ratified on July 11, 1956.

1953—Act Aug. 1, 1953, permitted this chapter to be used to implement the new agreement ratified on July 14, 1953.

SHORT TITLE

Section 1 of act Oct. 27, 1949, provided that: "This Act [enacting this chapter] shall be known as the 'International Wheat Agreement Act of 1949'."

TRANSFER OF FUNCTIONS

The Economic Cooperation Administration, referred to in text, was abolished by act Oct. 10, 1951, ch. 479, 65 Stat. 373. Its functions are now exercised by the Agency for International Development, an agency within the Department of State. See section 2381 of Title 22, Foreign Relations and Intercourse.

EXCEPTIONS FROM TRANSFER OF FUNCTIONS

Functions of the Corporations of the Department of Agriculture, the boards of directors and officers of such corporations; the Advisory Board of the Commodity Credit Corporation; and the Farm Credit Administration or any agency, officer or entity of, under, or subject to the supervision of the said Administration were excepted from the functions of officers, agencies and employees transferred to the Secretary of Agriculture by 1953 Reorg. Plan No. 2, § 1, effective June 4, 1953, 18 F.R. 3219, 67 Stat. 633, set out as a note under section 2201 of this title.

REFERENCES TO INTERNATIONAL WHEAT AGREEMENT OF 1949

Section 2 of act Aug. 3, 1956, provided that: "Reference in any law to the International Wheat Agreement of 1949 shall be deemed to include the Agreement (International Wheat Agreement, 1956) revising and renewing the International Wheat Agreement for a period ending July 31, 1959."

Section 2 of act Aug. 1, 1953, provided that: "Reference in any law to the International Wheat Agreement of 1949 shall be deemed to include the agreement revising and renewing the International Wheat Agreement."

§ 1642. Enforcement by President

(a) Rules or regulations

The President is further authorized to take such other action, including prohibiting or restricting the importation or exportation of wheat or wheat-flour and to issue such rules or regulations which shall have the force and effect of law, as may be necessary in his judgment in the implementation of the International Wheat Agreement.

(b) Reports; keeping and examination of books and records

All persons exporting or importing wheat or wheat-flour or selling wheat or wheat-flour for export shall report to the President such information as he may from time to time require and keep such records as he finds to be necessary to enable him to carry out the purposes of this chapter. Such information shall be reported and such records shall be kept in accordance with such regulations as the President may prescribe. For the purposes of ascertaining the correctness of any report made or record kept, or of obtaining information required to be furnished in any report, but not so furnished, the President is authorized to examine such books, papers, records, accounts, correspondence, contracts, documents, and memoranda as are relevant to transactions under the International Wheat Agreement and are within the control of any such person.

(c) Penalty for violation

Any person failing to make any report or keep any record as required by or pursuant to this section, or making any false report or record or knowingly violating any rule or regulation of the President issued pursuant to this section shall be deemed guilty of a misdemeanor and upon conviction thereof shall be subject to a fine of not more than $1,000 for each violation.

(d) Forfeiture for excessive exports or imports

Any person who knowingly and willfully exports wheat or wheat-flour from the United States, or who knowingly and willfully imports wheat or wheat-flour into the United States for consumption therein, in excess of the quantity of wheat or wheat-flour permitted to be exported or imported, as the case may be, under regulations issued by the President shall forfeit to the United States a sum equal to two times the market value at the time of the commission of any such act, of the quantity of wheat or wheat-flour by which any such exportation or importation exceeds the authorized amount which forfeiture shall be recoverable in a civil suit brought in the name of the United States.

(e) Jurisdiction and venue of actions; remedies, fines, and forfeitures as additional

The district courts of the United States shall have jurisdiction of violations of this chapter or the rules and regulations thereunder, and of all suits in equity and actions at law brought to enforce any liability or duty created by this chapter or the rules and regulations thereunder. Any criminal proceeding may be brought in the district wherein any act or transaction constituting the violation occurred. Any suit or action to enforce any liability or duty created by this chapter or rules and regulations thereunder, or to enjoin any violation of such chapter or rules and regulations, may be brought in any such district wherein the defendant is found or is a resident or transacts business. The remedies, fines, and forfeitures provided for in this chapter shall be in addition to, and not exclusive of, any of the remedies, fines, and forfeitures under existing law.

(f) Delegation of authority

Any power, authority, or discretion conferred on the President by this chapter may be exercised through such department, agency, or officer of the Government as the President may direct, and shall be exercised in conformity with such rules or regulations as he may prescribe.

(g) Authorization of appropriations

There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this section, including the necessary expenses and contributions of the United States in connection with the administration of the International Wheat Agreement.

(h) Use of funds

Funds appropriated under authority of this chapter may be used for the purchase or hire of passenger motor vehicles, for printing and binding, for rent and personal services in the District of Columbia and elsewhere without regard to the limitation contained in section 947(g) of title 5, and for the employment of experts or consultants or organization thereof, on a temporary basis, by contract or otherwise, without regard to chapter 51 and subchapter III of chapter 53 of title 5, at rates not in excess of $50 per diem.

(i) Exclusion from Administrative Procedure Act

The functions exercised under authority of this chapter shall be excluded from the operation of the Administrative Procedure Act (60 Stat. 237) except as to the requirements of sections 3 and 10 thereof.

(j) Definition of "person"

The term "person" as used in this section shall include the singular and the plural and any individual, partnership, corporation, association, or any other organized group of persons.

(Oct. 27, 1949, ch. 772, § 3, 63 Stat. 946; Oct. 28, 1949, ch. 782, title II, § 201(27), title XI, § 1106(a), 63 Stat. 956, 972.)

REFERENCES IN TEXT

Section 947 of title 5, referred to in subsec. (h), was repealed by act Sept. 12, 1950, ch. 946, title III, § 301 (85), 64 Stat. 843.

The Administrative Procedure Act, referred to in subsec. (i), was repealed and reenacted as subchapter II of chapter 5, and chapter 7, of Title 5, Government Organization and Employees, by Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 378, which enacted Title 5. Sections 3 and 10 thereof are now covered by section 552 and chapter 7, respectively, of Title 5.

CODIFICATION

The words "and the District Court of the United States for the District of Columbia" in subsection (e) following "district courts of the United States" have been deleted as superfluous in view of section 132 (a) of Title 28, Judiciary and Judicial Procedure, which states that "There shall be in each judicial district a district court which shall be a court of record known as the United States District Court for the district",

and section 88 of said Title 28 which states that "The District of Columbia constitutes one judicial district".

In subsec. (h), "chapter 51 and subchapter III of chapter 53 of title 5" was substituted for "the Classification Act of 1949" on authority of sec. 7(b) of Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 631, the first section of which enacted Title 5, Government Organization and Employees.

AMENDMENT

1949—Act Oct. 28, 1949, substituted "Classification Act of 1949" for "Classification Act [of 1923]".

REPEALS

Act Oct. 28, 1949, ch. 782, § 1106(a), 63 Stat. 972, set out in the credit of this section, was repealed (subject to a savings clause) by Pub. L. 89-554, Sept. 6, 1966, § 8, 80 Stat. 632, 655.

CROSS REFERENCES

Fines, penalties and forfeitures, see section 2461 et seq. of Title 28, Judiciary and Judicial Procedure.

Jurisdiction of district courts of actions for recovery of fine, penalty or forfeiture, see section 1355 of Title 28.

Misdemeanor defined, see section 1 of Title 18, Crimes and Criminal Procedure.

United States as party generally, see section 2401 et seq. of Title 28.

United States as plaintiff, jurisdiction of district courts, see section 1345 of Title 28.

Words denoting number, gender, etc., see section 1 of Title 1, General Provisions.

FEDERAL RULES OF CIVIL PROCEDURE

One form of action, see rule 2, Title 28, Appendix, Judiciary and Judicial Procedure.

FEDERAL RULES OF CRIMINAL PROCEDURE

Proceedings to be in district and division in which offense committed, see rule 18, Title 18, Appendix, Crimes and Criminal Procedure.

EX. ORD. NO. 11108. DELEGATION OF AUTHORITY

Ex. Ord. No. 11108, May 22, 1963, 28 F.R. 5185, provided:

By virtue of the authority vested in me as President of the United States by the International Wheat Agreement Act of 1949, as amended (7 U.S.C. 1641 et seq.) [this chapter] hereinafter referred to as the "Act," it is hereby ordered as follows:

SECTION 1. *Scope.* The Secretary of Agriculture (hereinafter referred to as "Secretary") shall exercise the power, authority, and discretion conferred on the President by the Act, and to this end the Secretary is authorized, among other things, to:

(a) Make available or cause to be made available, through the Commodity Credit Corporation, such quantities of wheat and wheat-flour and at such prices as are necessary to exercise the rights, obtain the benefits, achieve the objectives, and fulfill the obligations of the United States under the International Wheat Agreement.

(b) Prohibit or restrict the importation or exportation of wheat or wheat-flour and issue such rules and regulations as he may deem necessary in the implementation of the International Wheat Agreement.

(c) Require, in accordance with such regulations as he may prescribe, the making of such reports and the keeping of such records as he finds necessary to enable him to carry out the purposes of the Act.

(d) Examine such books, papers, records, accounts, correspondence, contracts, documents, and memoranda as are relevant to transactions under the International Wheat Agreement and are within the control of any person required to make reports or keep records under such regulations.

(e) Take such other action as may be necessary in his judgment in the implementation of the International Wheat Agreement.

SEC. 2. *Interagency Cooperation.* The Secretary, in exercising the authority delegated herein, shall consult with the Secretary of State, the Special Representative for Trade Negotiations, and other officers or agencies of the Government as may be appropriate.

SEC. 3. *Redelegation.* The Secretary is hereby authorized to redelegate within the Department of Agriculture the authority hereinabove delegated to him.

JOHN F. KENNEDY

CHAPTER 40—HALOGETON GLOMERATUS CONTROL

Sec.

1651. Government policy for control of Halogeton Glomeratus.
1652. Authority of Secretaries of Agriculture and Interior; surveys; control measures; consent of other departments.
1653. Expenditure of funds; discretion of Secretaries; utilization of available services.
1654. Contributions by States.
1655. Authorization of appropriations; use.
1656. Extent of authority.

§ 1651. Government policy for control of Halogeton Glomeratus

In order to protect the livestock industry from losses caused by the poisonous weed Halogeton glomeratus now or hereafter existing on lands in the several States, to provide for the maintenance and development of valuable forage plants on range and pasture lands, and to prevent destruction or impairment of range and pasture lands and other lands by the growth, spread, and development of the poisonous weed known as Halogeton glomeratus, it shall be the policy of the Federal Government, acting independently or in cooperation with the several States and political subdivisions thereof, private associations and organizations, and individuals, to control, suppress, and eradicate this weed, poisonous to livestock, on lands in the several States irrespective of ownership.

(July 14, 1952, ch. 721, § 2, 66 Stat. 597.)

SHORT TITLE

Section 1 of act July 14, 1952, provided that "This Act [enacting this chapter] may be cited as the 'Halogeton Glomeratus Control Act'."

§ 1652. Authority of Secretaries of Agriculture and Interior; surveys; control measures; consent of other departments

The Secretary of the Interior with respect to lands under his jurisdiction, including trust or restricted Indian lands, and the Secretary of Agriculture with respect to any other lands, either independently or in cooperation with any State or political subdivision thereof, private association or organization, or individual, are severally authorized, upon such conditions as they respectively deem necessary—

(1) to conduct surveys to detect the presence and effect of Halogeton glomeratus on lands in such State;

(2) to determine those measures and operations which are necessary to control, suppress, and eradicate such weed; and

(3) to plan, organize, direct, and carry out such measures and operations as either of them may deem necessary to carry out the purposes of this chapter.

(b) Measures and operations to control, suppress, or eradicate Halogeton glomeratus on lands under the jurisdiction of any department, agency, independent establishment, or corporation of the Federal Government shall not be conducted without the consent of the department, agency, independent establishment, or corporation concerned.

(July 14, 1952, ch. 721, § 3, 66 Stat. 598.)

§ 1653. Expenditure of funds; discretion of Secretaries; utilization of available services

The Secretary of Agriculture in his discretion may allocate, out of any sums appropriated to him under authority of this chapter, to any department, agency, independent establishment, or corporation of the Federal Government having jurisdiction over any land on which there exists Halogeton glomeratus, such amounts as he deems necessary for the control, suppression, and eradication of such weed by such department, agency, independent establishment, or corporation, as the case may be. Sums appropriated to the Secretary of the Interior under authority of this chapter shall be expended for work on, or of benefit to, lands under his jurisdiction, including trust or restricted Indian lands. Either Secretary may also accept and utilize such voluntary and uncompensated services of Federal, State, and local officers and employees as are available.

(July 14, 1952, ch. 721, § 4, 66 Stat. 598.)

§ 1654. Contributions by States

In the discretion of the Secretary of Agriculture or the Secretary of the Interior, as the case may be, no expenditures shall be made from funds appropriated under this chapter to control, suppress, or eradicate Halogeton glomeratus on lands in the several States until there have been made or agreed upon such contributions, in the form of funds, materials, services, or otherwise, by the States and political subdivisions thereof, private associations, and organizations, and individuals, toward the work of controlling, suppressing, or eradicating such weed, as the Secretary of Agriculture or the Secretary of the Interior, respectively, may require.

(July 14, 1952, ch. 721, § 5, 66 Stat. 598.)

§ 1655. Authorization of appropriations; use

(a) There are hereby authorized to be appropriated to the Secretary of Agriculture and to the Secretary of the Interior such sums as the Congress may from time to time determine to be necessary to carry out the purposes of this chapter.

(b) Any sums so appropriated shall be available for expenditure for the employment of persons and means in the District of Columbia and elsewhere, for the purchase, hire, maintenance, operation, and exchange of aircraft and passenger-carrying vehicles, and for such other expenses as may be necessary to carry out the purposes of this chapter.

(c) Such sums shall not be used to pay the cost or value of any property injured or destroyed in carrying out the purposes of this chapter.

(July 14, 1952, ch. 721, § 6, 66 Stat. 598.)

§ 1656. Extent of authority

The authority contained in this chapter shall be in addition to, and shall not limit or supersede, authority contained in existing law with respect to the control, suppression, and eradication of pests, plants, and plant diseases.

(July 14, 1952, ch. 721, § 7, 66 Stat. 599.)

CHAPTER 41—AGRICULTURAL TRADE DEVELOPMENT AND ASSISTANCE

Sec.

1691. Declaration of policy.
1691a. World Food Conference goal; United States contribution.

SUBCHAPTER I—BARTER

1692. Bartering authority of Secretary; exchange for strategic materials and materials for other purposes; cooperation of agencies; assistance to cooperatives; limitations.
1693 to 1697. Repealed.

SUBCHAPTER II—SALE OF AGRICULTURAL COMMODITIES FOR FOREIGN CURRENCIES AND LONG-TERM-DOLLAR-CREDIT

1701. Agreements with friendly countries.
1702. Financing sale and exportation of agricultural commodities from private or public stocks; exporters engaged in trade or commerce with North Vietnam; related companies; statement of ownership and control.
1703. Agreements with friendly countries and organizations; terms and conditions.
(a) Self-help measures to increase agricultural production, improve food commodity transportation, storage, and distribution facilities, and reduce population growth rate.
(b) Transition from sales for foreign currencies to sales for dollars.
(c) Safeguarding usual marketings; disruption of world prices and normal patterns of commercial trade with friendly countries.
(d) Sales agreements; reports to Congress; definition of "friendly country"; sales to United Arab Republic, aggressor and other unfriendly countries.
(e) Use of private trade channels to maximum extent practicable; small business sales participation.
(f) Development and expansion of foreign markets.
(g) Restrictive commitments from purchasing countries.
(h) Exchange rates.
(i) Production emphasis: food crops rather than nonfood crops in world supply.
(j) Assistance to friendly countries in being independent of domination or control by world Communist movement; sales agreements not authorized with government or organization controlling world Communist movement or with country not having diplomatic relations with United States.
(k) Minimum payments in dollars or currencies convertible into dollars.
(l) Concessional basis of commodities; marking or identification at point of distribution or sale; publicity.
(m) Currency conversion.
(n) Displacement of cash sales.

Sec.
(o) Commercial purchases of agricultural commodities; availability of commercial supplies for programs.
(p) Convertibility of foreign currencies received pursuant to sales to United States or purchasing country contractors for payment of wages.
(q) Convertibility of foreign currencies received pursuant to sales to United States importers.
1704. Purposes for which foreign currencies may be used.
1704a. Agreements for use of foreign currencies; reports to Congress.
1704b. Utilization of foreign currencies for construction of military projects; reimbursement of Commodity Credit Corporation.
1705. Deposit of foreign currencies in special account; reimbursements to Commodity Credit Corporation of sums used by other agencies; reduction of deficits in balance of payments.
1706. Payment for commodities.
(a) Dollar credit sales; period.
(b) Sales agreement provisions for use of proceeds for prescribed purposes and programs; payments: prescribed uses as section 1703(b) payments, limitation of amount, report to Congress; priority to sales agreements with countries conforming to certain requirements in their agricultural development plans.
1707. Private trade and enterprise.
(a) Declaration of policy; export sales agreements; period; credit terms; storage and marketing facilities; stimulation and expansion of economic enterprise; security for payments; interest; duration of delivery period, deferral of first payment, or term of credit; use to maximum extent practicable of authority for making dollar sales.
(b) Safeguarding usual marketings; displacement of cash sales.
(c) Restrictive commitments from purchasers.
(d) Provisions of subchapters II and IV applicable to sales.
1707a. Export Credit Sales Program; financing of commercial sales of private stocks; authorization of appropriations for reimbursement of costs to Commodity Credit Corporation.
1708. Ocean transportation costs.
1709. Self-help measures.
(a) Criteria of self-help.
(b) Minimum allocation of foreign currencies.
(c) Description of self-help program in agreements; termination of agreements for inadequate development of self-help program.
1710. Limitation on transactions.
1711. Assistance to most seriously affected countries; per capita gross national product determination from World Bank data; report to Congress.

SUBCHAPTER III—FAMINE RELIEF AND OTHER ASSISTANCE AND DONATIONS OF FOOD BOTH ON A GOVERNMENT-TO-GOVERNMENT BASIS AND THROUGH VOLUNTARY ORGANIZATIONS

1721. Statement of purpose; availability of commodities; minimum quantity for distribution.
1722. Furnishing commodities through friendly governments, agencies, and organizations; manner, terms and conditions; use of nonprofit voluntary agencies to extent practicable; identification of origin of commodities; assistance for community and other self-help activities; displacement of dollar sales.
1723. Payment of costs and charges.
1724. Authorization of appropriations for reimbursement of Commodity Credit Corporation; limitation; funds for purchase of foreign currencies.
1725. Encouragement of contributions from advanced nations for combating world hunger and malnutrition; expansion of United Nations World food program.
1726. Limitation on use of foreign currencies; reports to Congress.

SUBCHAPTER IV—GENERAL PROVISIONS

1731. Agricultural commodities available for disposition; determination by Secretary of Agriculture; criteria.
1732. Agricultural commodity defined; fishery products available.
1733. Authorization of appropriations; reimbursement of Commodity Credit Corporation; classification of expenditures.
1734. Aims of assistance programs; humanitarian objectives and national interest.
1735. Self-help in meeting food requirements and in resolving problems relative to population growth.
1736. Food production assistance.
(a) Authority of President.
(b) Authorization of appropriations.
1736a. Advisory committee; establishment; composition; general policies' survey; advisement of President; meetings; order of precedence.
1736b. Report to Congress.
1736c. Termination date for agreements to finance sales under subchapter II and programs of assistance under subchapter III.
1736d. Application of foreign assistance provisions referring to nationalization, expropriation, and related governmental Acts affecting property owned by United States citizens.
1736e. Sale or donation of agricultural commodities to North Vietnam prohibited without specific Congressional authorization.
1736f. International food reserve system.

CROSS REFERENCES

Use of foreign currencies acquired under this chapter for family housing and community facilities in foreign countries, see section 2681 of Title 10, Armed Forces.

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in title 13 section 301; title 15 section 713a-10; title 16 section 1537; title 22 sections 1922, 2151, 2151a, 2167, 2353, 2354, 2362, 2370, 2394, 2455, 2775.

§ 1691. Declaration of policy

The Congress hereby declares it to be the policy of the United States to expand international trade; to develop and expand export markets for United States agricultural commodities; to use the abundant agricultural productivity of the United States to combat hunger and malnutrition and to encourage economic development in the developing countries, with particular emphasis on assistance to those countries that are determined to improve their own agricultural production; and to promote in other ways the foreign policy of the United

States. In furnishing food aid under this chapter, the President shall—

(1) give priority consideration, in helping to meet urgent food needs abroad, to making available the maximum feasible volume of food commodities (with appropriate regard to domestic price and supply situations) required by those countries most seriously affected by food shortages and by inability to meet immediate food requirements on a normal commercial basis;

(2) continue to urge all traditional and potential new donors of food, fertilizer, or the means of financing these commodities to increase their participation in efforts to address the emergency and longer term food needs of the developing world;

(3) relate United States assistance to efforts by aid-receiving countries to increase their own agricultural production, with emphasis on development of small, family farm agriculture, and improve their facilities for transportation, storage, and distribution of food commodities;

(4) give special consideration to the potential for expanding markets for America's agricultural abundance abroad in the allocation of commodities or concessional financing; and

(5) give appropriate recognition to and support of a strong and viable American farm economy in providing for the food security of consumers in the United States and throughout the world.

(July 10, 1954, ch. 469, § 2, 68 Stat. 454; Nov. 11, 1966, Pub. L. 89-808, § 2(A), 80 Stat. 1526; Dec. 20, 1975, Pub. L. 94-161, title II, § 201, 89 Stat. 850.)

AMENDMENTS

1975—Pub. L. 94-161 added provisions of second sentence, including cls. (1) to (5), respecting considerations in furnishing food aid under this chapter.

1966—Pub. L. 89-808 restated the Congressional declaration of policy to include the use of the abundant agricultural productivity of the United States to combat hunger and malnutrition and the emphasis on assistance to those developing countries that are determined to improve their own agricultural production and to exclude statement of a policy to facilitate the convertibility of currency, to make maximum efficient use of surplus agricultural commodities in furtherance of the foreign policy of the United States, to purchase strategic materials, to pay United States obligations abroad, and to promote collective strength.

EFFECTIVE DATE OF 1966 AMENDMENT

Section 5 of Pub. L. 89-808 provided that: "This Act [which enacted sections 1707a, 1710, 1725, and 1736a to 1736d, amended sections 1431, 1431b, 1446a-1, 1691, 1701 to 1704, 1705, 1707, 1708, 1709, 1721 to 1724, and 1731 to 1736, and repealed sections 1693 to 1697 of this title and amended provisions set out as a note under section 1701 of this title] shall take effect as of January 1, 1967, except that section 4 [which enacted section 1707a of this title] shall take effect upon enactment [Nov. 11, 1966]."

SHORT TITLE OF 1966 AMENDMENT

Section 1 of Pub. L. 89-808 provided: "That this Act [which enacted sections 1707a, 1710, 1725, and 1736a to 1736d, amended sections 1431, 1431b, 1446a-1, 1691, 1701 to 1704, 1705, 1707, 1708, 1709, 1721 to 1724, and 1731 to 1736, and repealed sections 1693 to 1697 of this title and amended provisions set out as a note under section 1701 of this title] may be cited as the 'Food for Peace Act of 1966'."

SHORT TITLE

Section 1 of act July 10, 1954 provided that: "This Act [which enacted this chapter and amended sections 1427 and 1431 of this title] may be cited as the 'Agricultural Trade Development and Assistance Act of 1954'."

EXECUTIVE ORDER NO. 10560

Ex. Ord. No. 10560, Sept. 13, 1954, 19 F.R. 5927, as amended by Ex. Ord. No. 10575, Nov. 8, 1954, 19 F.R. 7249; Ex. Ord. No. 10685, Oct. 29, 1956, 21 F.R. 8261; Ex. Ord. No. 10708, May 6, 1957, 22 F.R. 3213; Ex. Ord. No. 10746, Dec. 13, 1957, 22 F.R. 10027; Ex. Ord. No. 10773, July 1, 1958, 23 F.R. 5061; Ex. Ord. No. 10782, Sept. 8, 1958, 23 F.R. 6971; Ex. Ord. No. 10799, Jan. 16, 1959, 24 F.R. 447; Ex. Ord. No. 10827, June 25, 1959, 24 F.R. 5233; Ex. Ord. No. 10884, Aug. 17, 1960, 25 F.R. 8019, which provided for the delegation of administrative functions, was superseded by Ex. Ord. No. 10900, Jan. 5, 1961, 26 F.R. 143, set out as a note under this section.

EXECUTIVE ORDER NO. 10685

Ex. Ord. No. 10685, Oct. 29, 1956, 21 F.R. 8261, which designated the International Cooperation Administration as the Federal agency to which funds required for ocean freight costs could be transferred by the Commodity Credit Corporation, was superseded by Ex. Ord. No. 10900, Jan. 5, 1961, 26 F.R. 143, set out as a note under this section.

EX. ORD. NO. 10900. DELEGATION OF ADMINISTRATIVE FUNCTIONS

Ex. Ord. No. 10900, Jan. 5, 1961, 26 F.R. 143, as amended by Ex. Ord. No. 10915, Jan. 24, 1961, 26 F.R. 781; Ex. Ord. No. 10972, Nov. 3, 1961, 26 F.R. 10469; Ex. Ord. No. 11036, July 1, 1962, 27 F.R. 6653;.Ex. Ord. No. 11051, Sept. 27, 1962, 27 F.R. 9683; Ex. Ord. No. 11963, Jan. 19, 1977, 42 F.R. 4325, provided:

By virtue of the authority vested in me by section 301 of title 3 of the United States Code, and as President of the United States, it is ordered as follows:

SECTION 1. *Department of Agriculture.* (a) Except as otherwise provided in this order, the functions conferred upon the President by Title I and IV of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1691 to 1694; 1731 to 1736) [sections 1701 to 1704, 1705 to 1707, 1708 to 1711, and 1731 to 1736e of this title] are hereby delegated to the Secretary of Agriculture.

(b) The administration on behalf of the United States of the credit provisions of agreements entered into persuant to Title IV of the Act [sections 1731 to 1736e of this title] (including the receiving of payments under agreements) shall be performed by such Federal agency or agencies as shall thereafter be designated therefor by the President.

(c) The Department of Agriculture shall transmit to the Senate and House of Representatives of the United States and to the Committees on Agriculture and Appropriations thereof the reports required by the provisions of paragraph (5) of the act of August 13, 1957, 71 Stat. 345 (7 U.S.C. 1704a).

(d) The Secretary of Agriculture, after consultation with the Secretary of State, Secretary of the Treasury, Administration of the Agency for International Development, Chairman of the Council of Economic Advisers, Director of the Office of Management and Budget, Chairman of the Council on International Economic Policy and the Assistant to the President for National Security Affairs, shall transmit to the Congress all reports required by section 408 of the Act (7 U.S.C. 1736b, 1970 ed., Supp V).

SEC. 2. *Department of State—administration of Title II.* The functions conferred upon the President by Title II of the Act (7 U.S.C. 1701-1709) [sections 1721 to 1725 of this title] are hereby delegated to the Secretary of State.

SEC. 3. *Department of State—other functions.* (a) The functions of negotiating and entering into agreements

with friendly nations or organizations of friendly nations conferred upon the President by the Act [this chapter] are hereby delegated to the Secretary of State.

(b) All functions under the Act, however vested, delegated or assigned, shall be subject to the responsibilities of the Secretary of State with respect to the foreign policy of the United States as such policy relates to such functions.

(c) The provisions of Part II of Executive Order No. 10893 of November 8, 1960, are hereby extended and made applicable to the functions provided for in the Act [this chapter] and to United States agencies and personnel concerned with the administration aboard of such functions.

SEC. 4. *Foreign currencies.* (a)(1) Foreign currencies which accrue under Title I of the Act [sections 1701, 1704, 1705 to 1707, 1708 to 1711 of this title] may be used for the purposes set forth in Section 104 of the Act [section 1704 of this title] in amounts consonant with applicable provisions of law and of sales agreements and loan agreements. Except as may be inconsistent with such law or agreements, priority shall be accorded to the sale of such currencies to appropriations or to their sale otherwise for dollars. To such extent as he may deem necessary, the Director of the Bureau of the Budget shall fix the amounts of such currencies to be used for the purposes set forth in Section 104 [section 1704 of this title]. The Director shall notify the Secretary of the Treasury with respect to any amounts so fixed.

(2) The function conferred upon the President by the penultimate proviso of Section 104 of the Act [section 1704 of this title] of waiving the applicability of Section 1415 of the Supplemental Appropriation Act, 1953 (31 U.S.C. 724) is hereby delegated to the Secretary of State in respect of Section 104(e) of the Act [section 1704(e) of this title] and to the Director of the Bureau of the Budget [now Director of the Office of Management and Budget] in all other respects.

(3) The function conferred upon the President by the penultimate proviso of section 104 of the Act [section 1704 of this title] of waiving the applicability of section 1415 of the Supplemental Appropriation Act, 1953 (31 U.S.C. 724) is hereby delegated to the Director of the Bureau of the Budget.

(b) The Secretary of the Treasury is hereby authorized to prescribe regulations governing the purchase, custody, deposit, transfer, and sale of foreign currencies received under the Act.

(c) The foregoing provisions of this section shall not be deemed to limit section 3 of this order, and the provisions of subsection (b) of this section shall not be deemed to limit subsection (a) thereof.

(d) The purposes described in the lettered paragraphs of section 104 of the Act (7 U.S.C. 1704) shall be carried out, with foreign currencies made available in consonance with law and the provisions of this order, as follows:

(1) Those under section 104(a) of the Act [section 1704(a) of this title] by the Department of Agriculture.

(2) Those under section 104(b) of the Act [section 1704(b) of this title] by the Office of Emergency Preparedness [now abolished]. The function conferred upon the President by that section of determining, from time to time, materials to be contracted for or to be purchased for a supplemental stockpile is hereby delegated to the Director of the Office of Emergency Preparedness.

(3) Those under section 104(c) of the Act [section 1704(c) of this title] by the Department of Defense or the Department of State, as those agencies shall agree, or in the absence of agreement, as the Director of the Bureau of the Budget [now Director of the Office of Management and Budget] shall determine.

(4) Those under sections 104(d) and 104(e) of the Act [sections 1704(d) and (e) of this title] by the Department of State.

(5) Those under Section 104(s) of the Act [former section 1704(s) of this title] by the Department of the Treasury in consultation with the Department of State. The function conferred upon the President by Section 104(s)of the Act [former section 1704(s) of this title] of prescribing terms and conditions is hereby delegated to the Secretary of the Treasury and shall be performed by him in consultation with the Secretary of State.

(6) Those under section 104(f) of the Act [section 1704(f) of this title] by the respective agencies of the Government having authority to pay United States obligations abroad.

(7) Those under Section 104(g) of the Act [section 1704(g) of this title] by the Department of State. The function conferred upon the President by Section 104(g) of the Act [section 1704(g) of this title] of determining the manner in which the loans provided for in that section shall be made is hereby delegated to the Secretary of State.

(8) Those under sections 104(h), 104(o), 104(p), and 104(q) of the Act [section 1704(h), former subsections (o), (p), and (q) of section 1704 this title] by the Department of State.

(9) Those under sections 104(i) and 104(m) of the Act [section 1704(i) and former subsection (m) of section 1704 of this title] by the United States Information Agency.

(10) Those under section 104(j) of the Act [section 1704(j) of this title] by the Department of State and by the United States Information Agency in accordance with the division of responsibilities for the administration of the United States Information and Educational Exchange Act of 1948 (62 Stat. 6) [section 1431 et seq. of Title 22, Foreign Relations and Intercourse] provided by Reorganization Plan No. 8 of 1953 (67 Stat. 642) [set out as a note under section 1461 of Title 22, Foreign Relations and Intercourse] and Executive Order No. 10477 of August 1, 1953 [set out as a note under section 811a of Title 22], and by subsequent agreement between the Department of State and the United States Information Agency.

(11) Those under section 104(k) of the Act [section 1704(k) of this title] as follows: (i) Those with respect to collecting, collating, translating, abstracting, and disseminating scientific and technological information by the Director of the National Science Foundation and such other agency or agencies as the Director of the Bureau of the Budget, after appropriate consultation, may designate. (ii) Those with respect to programs of cultural and educational development, health, nutrition, and sanitation by the Department of State. (iii) All others by such agency or agencies as the Director of the Bureau of the Budget, after appropriate consultation, may designate. As used in this paragraph the term "appropriate consultation" shall include consultation with the Secretary of State, the Director of the National Science Foundation, and any other appropriate Federal agency.

(12) Those under section 104(*l*) of the Act [former subsection (*l*) of section 1704 of this title] by the Department of State and by any other agency or agencies designated therefor by the Secretary of State.

(13) Those under section 104(n) of the Act [former subsection (n) of section 1704 of this title] by the Librarian of Congress.

(14) Those under section 104(r) of the Act [former subsection (r) of section 1704 of this title] by the Department of State and by the United States Information Agency, as they shall agree.

(e) In negotiating international agreements in pursuance of the Act, the Secretary of State shall endeavor to avoid restrictions which would limit the application of normal budgetary and appropriation controls to the use of those foreign currencies accruing under Title I of the Act [sections 1701 to 1704, 1705 to 1707, 1708 to 1711 of this title] which are to be available for operations of United States Government agencies.

SEC. 5. *Director of the Food-for-Peace Program.* Subject to the direction of the President, the Director of the Food-for-Peace Program (provided for in a letter of the President bearing the same date as this order) shall be responsible for the continuous supervision

and coordination of the functions hereinabove delegated or otherwise assigned to officers or agencies of the Government. The foregoing provisions of this section shall not be construed as terminating any delegation or other assignment of function made by other sections of this order.

SEC. 6. *Definition; references.* (a) As used in this order, the term "Act" and the term "Agricultural Trade Development and Assistance Act of 1954" mean the Agricultural Trade Development and Assistance Act of 1954 (68 Stat. 454) [this chapter] as amended from time to time, and include, except as may be inappropriate, provisions thereof amending other laws.

(b) References in any prior order not superseded by this order to any provisions of any Executive order superseded by this order shall hereafter be deemed to be references to the corresponding provisions, if any, of this order.

(c) References in this order or in any other Executive order to this order or any provision of this order shall be deemed to include references thereto, respectively, as amended from time to time.

SEC. 7. *Superseding and saving provisions.* (a) To the extent not heretofore superseded, the following-described orders and parts of orders are hereby superseded:

(1) Executive Order No. 10560 of September 9, 1954.

(2) Executive Order No. 10685 of October 27, 1956.

(3) Executive Order No. 10708 of May 6, 1957.

(4) Executive Order No. 10746 of December 12, 1957.

(5) Sections 1 and 2 of Executive Order No. 10799 of January 15, 1959.

(6) Executive Order No. 10827 of June 25, 1959.

(7) Executive Order No. 10884 of August 17, 1960.

(8) Without prejudice to section 3(c) of this order, the text enclosed in parentheses in section 304(a) (2) of Executive Order No. 10893 of November 8, 1960.

(b) Except to the extent that they may be inconsistent with this order, all determinations, authorizations, regulations, rulings, certificates, orders, directives, contracts, agreements, and other actions made, issued, or entered into with respect to any function affected by this order and not revoked, superseded, or otherwise made inapplicable before the date of this order, shall continue in full force and effect until amended, modified, or terminated by appropriate authority.

DWIGHT D. EISENHOWER

TRANSFER OF FUNCTIONS

The Office of Emergency Preparedness, referred to in Ex. Ord. No. 10900, was abolished and the functions of the Office and its officers were transferred to the President by Reorg. Plan No. 1 of 1973, set out in the Appendix to Title 5, Government Organization and Employees.

Functions of the Director of the Office of Emergency Preparedness under Ex. Ord. No. 10900, Jan. 6, 1961, 26 F.R. 143, as amended, transferred to the Administrator of General Services, see section 3 of Ex. Ord. No. 11725, June 27, 1973, 38 F.R. 17175, set out as a note under section 2271 of Title 50, Appendix, War and National Defense.

The name of the Office of Emergency Planning, formerly referred to in Ex. Ord. No. 10900, was changed to the Office of Emergency Preparedness by Pub. L. 90-608, ch. IV, § 402, Oct. 21, 1968, 82 Stat. 1194, with references in any other law to the Office of Emergency Planning to be deemed, after Oct. 21, 1968, references to the Office of Emergency Preparedness.

All functions vested by law (including reorganization plan) in the Bureau of the Budget or the Director of the Bureau of the Budget, referred to in Ex. Ord. No. 10900, were transferred to the President of the United States by section 101 of 1970 Reorg. Plan No. 2, eff. July 1, 1970, 35 F.R. 7959, 84 Stat. 2085. Section 102 of 1970 Reorg. Plan No. 2, redesignated the Bureau of the Budget as the Office of Management and Budget and the offices of Director of the Bureau of the Budget, Deputy Director of the Bureau of the Budget, and Assistant Directors of the Bureau of the Budget as Director of the Office of Management and Budget, Deputy Director of the Office of Management and Budget, and Assistant Directors of the Office of Management and Budget, respectively. Section 103 of 1970 Reorg. Plan No. 2, transferred the records property, personnel, and funds of the Bureau of the Budget to the Office of Management and Budget. See Part I of Reorganization Plan 2 of 1970, set out in the Appendix to Title 5, Government Organization and Employees.

EX. ORD. NO. 11252. FOOD-FOR-PEACE PROGRAM

Ex. Ord. No. 11252, Oct. 20, 1965, 30 F.R. 13507, provided:

WHEREAS the Food-For-Peace Program has fulfilled and continues to fulfill the hopes of its creators and is providing the United States with a significant new medium for advancing the cause of world peace and understanding through the use of our agricultural abundance to alleviate hunger, malnutrition, and privation among our neighbors abroad; and

WHEREAS the objectives of the Food-For-Peace Program can now best be achieved by vesting responsibility for the Program in the Secretary of State, the Cabinet official chiefly responsible for our policies and programs abroad, so that the activities of this Program will be coordinated, consolidated, and carried out more effectively with related activities of the United States abroad; and

WHEREAS the Secretary of State will be able to discharge these responsibilities more effectively through a special assistant specifically designated to assist him in carrying out the Food-For-Peace Program:

NOW, THEREFORE, by virtue of the authority vested in me by subsection (f) of Section 303 of the Government Employees Salary Reform Act of 1964 [section 5317 of Title 5, Government Organization and Employees] and as President of the United States, it is hereby ordered as follows:

SECTION 1. All functions of the Director of the Food-For-Peace Program, including those under Executive Order No. 10900 of January 5, 1961, as amended [set out as a note under this section] and under the Presidential memorandum of January 24, 1961, relating to the Food-For-Peace Program (26 F.R. 781), are hereby transferred to the Secretary of State; and that order and memorandum are modified accordingly.

SEC. 2. There shall be in the Department of State a Special Assistant to the Secretary of State who shall assist the Secretary as the latter may direct in connection with the carrying out of the functions of the Secretary under this order and shall perform such other duties as the Secretary may direct.

SEC. 3. Section 1 of Executive Order No. 11248 of October 10, 1965, is amended by adding thereto the following:

"(3) Special Assistant to the Secretary (Food-For-Peace Program), State Department."

SEC. 4. This order shall take effect on November 1, 1965.

LYNDON B. JOHNSON.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1701 of this title; title 10 section 2681.

§ 1691a. World Food Conference goal; United States contribution

Pursuant to the World Food Conference recommendation that donor countries provide a total of at least ten million tons of food assistance to needy nations annually, the President is urged to maintain a significant United States contribution to this goal and to encourage other countries to maintain and increase their contributions as well.

(July 10, 1954, ch. 469, § 3, as added Dec. 20, 1975, Pub. L. 94-161, title II, § 202, 89 Stat. 851.)

WORLD FOOD CONFERENCE RECOMMENDATIONS; REPORT TO CONGRESS OF EXECUTIVE IMPLEMENTATION

Section 213 of Pub. L. 94-161 provided that: "The Congress calls upon the President to strengthen the efforts of the United States to carry out the recommendations of the World Food Conference. The President shall submit a detailed report to the Congress not later than November 1, 1976, with respect to the steps he has taken to carry out the recommendations of the World Food Conference, including steps to fulfill the commitment of the United States and to encourage other nations to increase their participation in efforts to improve the food security of the poorest portion of the world's population."

SUBCHAPTER I—BARTER

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in section 1736e of this title; title 10 section 2681.

§ 1692. Bartering authority of Secretary; exchange for strategic materials and materials for other purposes; cooperation of agencies; assistance to cooperatives; limitations

The Secretary shall, whenever he determines that such action is in the best interest of the United States, and to the maximum extent practicable, barter or exchange agricultural commodities owned by the Commodity Credit Corporation for (a) such strategic or other materials of which the United States does not domestically produce its requirements and which entail less risk of loss through deterioration or substantially less storage charges as the President may designate, or (b) materials, goods, or equipment required in connection with foreign economic and military aid and assistance programs, or (c) materials or equipment required in substantial quantities for offshore construction programs. He is directed to use every practicable means, in cooperation with other Government agencies, to arrange and make, through private channels, such barters or exchanges or to utilize the authority conferred on him by section 714b(h) of title 15 to make such barters or exchanges. In carrying out barters or exchanges authorized by this section, no restrictions shall be placed on the countries of the free world into which surplus agricultural commodities may be sold, except to the extent that the Secretary shall find necessary in order to take reasonable precautions to safeguard usual marketings of the United States and to assure that barters or exchanges under this chapter and sections 1427 and 1431 of this title will not unduly disrupt world prices of agricultural commodities or replace cash sales for dollars. The Secretary may permit the domestic processing of raw materials of foreign origin. The Secretary shall endeavor to cooperate with other exporting countries in preserving normal patterns of commercial trade with respect to commodities covered by formal multilateral international marketing agreements to which the United States is a party. Agencies of the United States Government procuring such materials, goods, or equipment are directed to cooperate with the Secretary in the disposal of surplus agricultural commodities by means of barter or exchange. The Secretary is also directed to assist, through such means as are available to him, farmers' cooperatives in effecting exchange of agricultural commodities in their possession for strategic materials. Barter or exchange of agricultural commodities under clause (a) of this section shall be limited to exchange for materials which originate in the country to which the surplus agricultural commodities are exported and to arrangements which will prevent resale or transshipment of the agricultural commodities to other countries.

(July 10, 1954, ch. 469, title III, § 303, 68 Stat. 459; Sept. 6, 1958, Pub. L. 85-931, § 6, 72 Stat. 1791; July 29, 1968, Pub. L. 90-436, § 7, 82 Stat. 451.)

AMENDMENTS

1968—Pub. L. 90-436 added the provision limiting the barter or exchange of agricultural commodities to exchange for materials which originate in the country to which the surplus commodities are exported and to arrangements which prevent the resale or transshipment of the commodities to other countries.

1958—Pub. L. 85-931 provided for an expanded barter program, and, among other changes, directed the Secretary to barter to the maximum extent practicable and whenever such action is in the best interest of the United States, relieved the Secretary from entering into barter transactions when there is opportunity to protect funds and assets of the Commodity Credit Corporation, broadened the base from which the President may select materials entailing less risk of loss or less storage charges which the United States does not produce to meet its requirements, restated existing requirements respecting cooperation of other governmental agencies with the Secretary in arranging through private channels barters or exchanges, provided for safeguarding of usual marketings of the United States, directed the Secretary to assure that barter transactions will not disturb world prices or replace cash sales for American dollars, permitted domestic processing of raw materials of foreign origin, and directed the Secretary to endeavor to cooperate with exporting countries with respect to commodities governed by formal multilateral international marketing agreements to which the United States is a party.

§§ 1693 to 1697. Repealed. Pub. L. 89-808, § 2(D), Nov. 11, 1966, 80 Stat. 1535

Section 1693, acts July 10, 1954, ch. 469, title III, § 304, 68 Stat. 459; Aug. 13, 1957, Pub. L. 85-128, § 1(6), 71 Stat. 345; Oct. 8, 1964, Pub. L. 88-638, § 1(16), 78 Stat. 1037, provided for assistance to friendly nations in being independent of Russian or Communist Chinese trade, prevention of increased availability of commodities to unfriendly nations, and nonauthorization of transactions with Russia or Communist China, and is now covered by section 1703(j) of this title.

Section 1694, acts July 10, 1954, ch. 469, title III, § 305, 68 Stat. 459; Sept. 21, 1959, Pub. L. 86-341, title I, § 10, 73 Stat. 607, provided for identification of packages and containers by appropriate markings, and is now covered by section 1722 of this title.

Section 1695, act July 10, 1954, ch. 469, title III, § 306, as added Sept. 21, 1959, Pub. L. 86-341, title I, § 11, 73 Stat. 608, provided for distribution of surplus food commodities to needy persons in United States: authorization, term of program, and cost limitation; duties of Secretary of Agriculture; issuance of food stamps and their redemption; receipt of benefits not deemed income or resources under provisions of other laws; availability of surplus foods for distribution; definition of needy person; report to Congress; and authorization of appropriations. See Food Stamp Program classified to chapter 51 of this title.

Section 1696, act July 10, 1954, ch. 469, title III, § 307, as added Sept. 21, 1959, Pub. L. 86-341, title I, § 12, 73 Stat. 609, provided for availability of surplus commodities for distribution to needy families and persons in United States. See Food Stamp Program

classified to chapter 51 of this title and provisions of section 1721 et seq. of this title relating to donations of food on a government-to-government basis and through voluntary organizations.

Section 1697, act July 10, 1954, ch. 469, title III, § 308, as added Sept. 21, 1959, Pub. L. 86-341, title I, § 13, 73 Stat. 609, and amended Sept. 27, 1962, Pub. L. 87-703, title II, § 203, 76 Stat. 611, related to disposal of animal fats and edible oils, and is covered by section 1721 et seq. of this title.

EFFECTIVE DATE OF REPEAL

Repeal of sections effective Jan. 1, 1967, see section 5 of Pub. L. 89-808, set out as a note under section 1691 of this title.

SUBCHAPTER II—SALE OF AGRICULTURAL COMMODITIES FOR FOREIGN CURRENCIES AND LONG-TERM-DOLLAR-CREDIT

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 1724, 1732, 1736a, 1736b, 1736c, 1736e, 1743, 1762 of this title; title 10 section 2681; title 22 sections 2103, 2291.

§ 1701. Agreements with friendly countries

In order to carry out the policies and accomplish the objectives set forth in section 1691 of this title, the President is authorized to negotiate and carry out agreements with friendly countries to provide for the sale of agricultural commodities for dollars on credit terms or for foreign currencies.

(July 10, 1954, ch. 469, title I, § 101, 68 Stat. 455; Sept. 6, 1958, Pub. L. 85-931, § 1, 72 Stat. 1790; Aug. 8, 1961, Pub. L. 87-128, title II, § 201(1), 75 Stat. 306; Dec. 16, 1963, Pub. L. 88-205, pt. IV, § 403(a), 77 Stat. 390; Oct. 8, 1964, Pub. L. 88-638, § 1(1), (2), 78 Stat. 1035; Nov. 11, 1966, Pub. L. 89-808, § 2(B), 80 Stat. 1526.)

AMENDMENTS

1966—Pub. L. 89-808 substituted "agreements with friendly countries to provide for the sale of agricultural commodities for dollars on credit terms or for foreign currencies" for "agreements with friendly nations or organizations of friendly nations to provide for the sale of surplus agricultural commodities for foreign currencies" and deleted subsecs. (a) to (d), (f), and (g), relating to safeguarding usual marketings and disruption of world prices and normal patterns of commercial trade with friendly countries, use of private channels to maximum extent practicable, development and expansion of foreign markets, restrictive commitments from participating countries, exchange rates, and currency conversion, now covered by section 1703(c), (e) to (h), and (m)(1) of this title, respectively, and subsec. (e), relating to maximum opportunity for friendly nation to purchase surplus agricultural commodities.

1964—Subsec. (f). Pub. L. 88-638, § 1(1), inserted ", and which are not less favorable than the highest of exchange rates obtainable by any other nation", and deleted "from the government or agencies thereof" preceding "in the respective countries".

Subsec. (g). Pub. L. 88-638, § 1(2), added subsec. (g).

1963—Subsec. (f). Pub. L. 88-205 substituted "the highest of exchange rates legally obtainable from the Government or agencies thereof" for "the rates at which United States Government agencies can buy currencies from the United States disbursing officers".

1961—Subsec. (f). Pub. L. 87-128 added subsec. (f).

1958—Subsec. (a). Pub. L. 85-931 required the President to take reasonable precautions to assure that sales of surplus commodities would not disrupt normal patterns of commercial trade with friendly countries.

EFFECTIVE DATE OF 1966 AMENDMENT

Amendment by Pub. L. 89-808 effective Jan. 1, 1967, see section 5 of Pub. L. 89-808, set out as a note under section 1691 of this title.

DELEGATION OF FUNCTIONS

Functions of the President of negotiating and entering into agreements with friendly nations or organizations of friendly nations delegated to the Secretary of State, see section 3(a) of Ex. Ord. No. 10900, Jan. 5, 1961, 26 F.R. 143, set out as a note under section 1691 of this title.

Functions of the President under this subchapter delegated to the Secretary of Agriculture, see section 1(a) of Ex. Ord. No. 10900, Jan. 5, 1961, 26 F.R. 143, set out as a note under section 1691 of this title.

EMERGENCY FOOD ASSISTANCE TO INDIA

Pub. L. 90-7, Apr. 1, 1967, 81 Stat. 7, provided:

"That the Congress approves the participation of the United States in cooperation with other countries and with multilateral organizations, including the International Bank for Reconstruction and Development, the Organization for Economic Cooperation and Development, the Food and Agriculture Organization, and others, in urgent international efforts designed to—

"(a) develop a comprehensive self-help approach to the war on hunger based on a fair sharing of the burden among the nations of the world;

"(b) encourage and assist the Government of India in achieving food self-sufficiency; and

"(c) help meet India's critical food and nutritional needs by making available agricultural commodities or other resources needed for food procurement or production.

"Because uncertainty in connection with Public Law 480 transactions tends to depress market prices, it is the sense of Congress that, in carrying out this Aid to India program, the Administration should, subject to the requirement of section 401 of Public Law 480 [section 1731 of this title] with respect to the availability of the commodity at the time of exportation, make announcements of intention, purchases and shipments of commodities on schedules and under circumstances which will protect and strengthen farm market prices to the maximum extent possible.

"The Congress endorses the President's policy of equal participation on the part of the United States with all other nations, under terms and conditions set forth in Public Law 480, as amended [this chapter], in assisting the Government of India to meet these needs.

"Further, the Congress recommends, on the basis of estimates now available, that the United States provide an additional amount of food grain not to exceed three million tons at an estimated cost of $190,000,000 as the United States share toward meeting the India food deficit, provided it is appropriately matched, and specifically extends its support to the allocation of approximately $190,000,000 of funds available to the Commodity Credit Corporation in calendar year 1967 which will be required to accomplish this purpose.

"The Congress further recommends that the President provide an additional $25,000,000 of emergency food relief for distribution by CARE and other American voluntary agencies."

COTTON AND COTTON PRODUCTS

Section 8 of Pub. L. 85-931 as amended by Pub. L. 89-808, § 3(d), Nov. 11, 1966, 80 Stat. 1538, provided that: "In carrying out the provisions of the Agricultural Trade Development and Assistance Act of 1954, as amended [this chapter], extra long staple cotton shall be made available for sale pursuant to the provisions of title I of the Act [this subchapter] in the same manner as upland cotton or any other surplus agricultural commodity is made available, and products manufactured entirely from upland or long staple cotton shall be made available for sale pursuant to the provi-

sions of title I of the Act [this subchapter] as long as cotton is in surplus supply in the same manner as any other agricultural commodity or product is made available, and no discriminatory or other conditions shall be imposed which will prevent or tend to interfere with their sale or availability for sale under the Act [this chapter].

Amendment by Pub. L. 89-808 effective Jan. 1, 1967, see section 5 of Pub. L. 89-808, set out as a note under section 1691 of this title.

CARGO PREFERENCE LAW EXEMPTION

Section 3 of act Aug. 3, 1956, ch. 933, 70 Stat. 988, provided that: "Sales of fresh fruit and the products thereof under title I of the Act [sections 1701 to 1704, 1705 to 1707, 1708 to 1711 of this title] shall be exempt from the requirements of the cargo preference laws (Public Resolution 17, Seventy-third Congress [section 616a of Title 15] and section 901(b) of the Merchant Marine Act, 1936 [section 1241(b) of Title 46]).

DISPOSITION OF SURPLUS AGRICULTURAL COMMODITIES

Disposition of surplus agricultural commodities to foreign countries, see section 1922 of Title 22, Foreign Relations and Intercourse.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 22 sections 1922, 2103.

§ 1702. Financing sale and exportation of agricultural commodities from private or public stocks; exporters engaged in trade or commerce with North Vietnam; related companies; statement of ownership and control

For the purpose of carrying out agreements concluded under this chapter and sections 1427 and 1431 of this title the Commodity Credit Corporation is authorized to finance the sale and exportation of agricultural commodities whether from private stocks or from stocks of the Commodity Credit Corporation: *Provided*, That the Commodity Credit Corporation shall not finance the sale and export of agricultural commodities under this chapter and sections 1427 and 1431 of this title, for any exporter which is engaging in, or in the six months immediately preceding the application for such financing has engaged in, any sales, trade, or commerce with North Vietnam, or with any resident thereof, or which owns or controls any company which is engaging in, or in such period has engaged in, any such sales, trade, or commerce, or which is owned or controlled by any company or person which is engaging in, or which in such period has engaged in, any such sales, trade, or commerce either directly or through any branch, subsidiary, affiliate, or associated company: *Provided further*, That such application for financing must be accompanied by a statement in which are listed by name, address, and chief executive officers all branches, affiliates, subsidiaries and associated companies, foreign and domestic, in which the applicant has a controlling interest and similar information for all companies which either directly or through subsidiaries or otherwise have a controlling interest in the applicant company.

(July 10, 1954, ch. 469, title I, § 102, 68 Stat. 455; April 25, 1955, ch. 27, 69 Stat. 44; Oct. 8, 1964, Pub. L. 88-638, § 1(3), 78 Stat. 1035; Nov. 11, 1966, Pub. L. 89-808, § 2(B), 80 Stat. 1526; July 29, 1968, Pub. L. 90-436, § 9, 82 Stat. 451.)

AMENDMENTS

1968—Pub. L. 90-436 added the proviso that the Commodity Credit Corporation should not finance the sale and export of any agricultural commodities where the exporter has engaged in any sales, trade or commerce with North Vietnam, or with any resident thereof, or which owns or controls any company so engaged, or which is owned or controlled by any company or person so engaged either directly or indirectly, and the further proviso that the financing application be accompanied by a statement in which are listed the branches, etc., in which the applicant has a controlling interest and the companies which have a controlling interest in the applicant company.

1966—Pub. L. 89-808 incorporated provisions formerly constituting subsec. (a)(2), and deleted other provisions of subsec. (a) and (a)(1) relating to availability of stocks acquired in price support operations and ocean freight charges, such charges now covered by section 1708 of this title, and subsec. (b) for letters of commitment against funds or guaranties and establishment of accounts.

1964—Subsec. (a). Pub. L. 88-638 authorized the Commodity Credit Corporation to finance ocean freight charges incurred under agreements entered into after Dec. 31, 1964, to the extent such charges are higher because of the requirement that the commodities be shipped in United States flag vessels, and provided that such agreements require the balance of such charges to be paid in dollars.

1955—Subsec. (a). Act Apr. 25, 1955 eliminated requirement that exporters of privately owned stocks acquire an equivalent quantity of Commodity Credit Corporation stocks.

EFFECTIVE DATE OF 1966 AMENDMENT

Amendment by Pub. L. 89-808 effective Jan. 1, 1967, see section 5 of Pub. L. 89-808, set out as a note under section 1691 of this title.

DISPOSITION OF SURPLUS AGRICULTURAL COMMODITIES

Disposition of surplus agricultural commodities to foreign countries, see section 1922 of Title 22, Foreign Relations and Intercourse.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1707 of this title; title 22 section 2103.

§ 1703. Agreements with friendly countries and organizations; terms and conditions

In exercising the authorities conferred upon him by this subchapter, the President shall—

(a) Self-help measures to increase agricultural production, improve food commodity transportation, storage, and distribution facilities, and reduce population growth rate

take into account efforts of friendly countries to help themselves toward a greater degree of self-reliance, including efforts to increase their own agricultural production, especially through small, family farm agriculture, to improve their facilities for transportation, storage, and distribution of food commodities, and to reduce their rate of population growth;

(b) Transition from sales for foreign currencies to sales for dollars

take steps to assure a progressive transition from sales for foreign currencies to sales for dollars (or to the extent that transition to sales for dollars under the terms applicable to such sales is not possible, transition to sales for foreign currencies on credit terms no less favorable to the United States than those for development loans made under section 2161 of title

22, and on terms which permit conversion to dollars at the exchange rate applicable to the sales agreement) at a rate whereby the transition can be completed by December 31, 1971: *Provided,* That, except where he determines that it would be inconsistent with the objectives of this chapter and sections 1427 and 1431 of this title, the President shall determine the amount of foreign currencies needed for the uses specified in subsections (a), (b), (c), (e), and (h) of section 1704 and in section 1706(b)(2) of this title, and the agreements for such credit sales shall provide for payment of such amounts in dollars or in foreign currencies upon delivery of the agricultural commodities. Such payment may be considered as an advance payment of the earliest installments;

(c) Safeguarding usual marketings; disruption of world prices and normal patterns of commercial trade with friendly countries

take reasonable precautions to safeguard usual marketings of the United States and to assure that sales under this subchapter will not unduly disrupt world prices of agricultural commodities or normal patterns of commercial trade with friendly countries;

(d) Sales agreements; reports to Congress; definition of "friendly country"; sales to United Arab Republic, aggressor and other unfriendly countries

make sales agreements only with those countries which he determines to be friendly to the United States: *Provided,* That the President shall periodically review the status of those countries which are eligible under this subsection and report the results of such review to the Congress. As used in this chapter and sections 1427 and 1431 of this title, "friendly country" shall not include (1) any country or area dominated or controlled by a foreign government or organization controlling a world Communist movement, or (2) for the purpose only of sales of agricultural commodities for foreign currencies under this subchapter, any country or area dominated by a Communist government, or (3) for the purpose only of sales of agricultural commodities under this subchapter, any nation which sells or furnishes or permits ships or aircraft under its registry to transport to or from Cuba or North Vietnam (excluding United States installations in Cuba) any equipment, materials, or commodities so long as they are governed by a Communist regime: *Provided,* That this exclusion from the definition of "friendly country" may be waived by the President if he determines that such waiver is in the national interest and reports such determination to the Congress within 10 days of the date of such determination, or (4) for the purposes only of sales under this subchapter the United Arab Republic, unless the President determines that such sale is in the national interest of the United States. No sales to the United Arab Republic shall be based upon the requirements of that nation for more than one fiscal year. The President shall keep the President of the Senate and the Speaker of the House of Representatives fully and currently informed with respect to sales made to the United Arab Republic under this subchapter. Notwithstanding any other act, the President may enter into agreements for the sale of agricultural commodities for dollars on credit terms under this subchapter with countries which fall within the definition of "friendly country" for the purpose of such sales and no sales under this chapter and sections 1427 and 1431 of this title shall be made with any country if the President finds such country is (a) an aggressor, in a military sense, against any country having diplomatic relations with the United States, or (b) using funds, of any sort, from the United States for purposes inimical to the foreign policies of the United States;

(e) Use of private trade channels to maximum extent practicable; small business sales participation

take appropriate steps to assure that private trade channels are used to the maximum extent practicable both with respect to sales from privately owned stocks and with respect to sales from stocks owned by the Commodity Credit Corporation and that small business has adequate and fair opportunity to participate in sales made under the authority of this chapter and sections 1427 and 1431 of this title;

(f) Development and expansion of foreign markets

give special consideration to the development and expansion of foreign markets for United States agricultural commodities, with appropriate emphasis on more adequate storage, handling, and food distribution facilities as well as long-term development of new and expanding markets by encouraging economic growth;

(g) Restrictive commitments from purchasing countries

obtain commitments from purchasing countries that will prevent resale or transshipment to other countries, or use for other than domestic purposes, of agricultural commodities purchased under this subchapter, without specific approval of the President;

(h) Exchange rates

obtain rates of exchange applicable to the sale of commodities under such agreements which are not less favorable than the highest of exchange rates legally obtainable in the respective countries and which are not less favorable than the highest of exchange rates obtainable by any other nation;

(i) Production emphasis: food crops rather than nonfood crops in world supply

promote progress toward assurance of an adequate food supply by encouraging countries with which agreements are made to give higher emphasis to the production of food crops than to the production of such nonfood crops as are in world surplus;

(j) Assistance to friendly countries in being independent of domination or control by world Communist movement; sales agreements not authorized with government or organization controlling world Communist movement or with country not having diplomatic relations with United States

exercise the authority contained in this subchapter to assist friendly countries to be independent of domination or control by any world Communist movement. Nothing in this chapter and sections 1427 and 1431 of this title shall be construed as authorizing sales agreements under this subchapter with any government or organization controlling a world Communist movement or with any country with which the

United States does not have diplomatic relations;

(k) Minimum payments in dollars or currencies convertible into dollars

whenever practicable require upon delivery that not less than 5 per centum of the purchase price of any agricultural commodities sold under this subchapter be payable in dollars or in the types or kinds of currencies which can be converted into dollars;

(l) Concessional basis of commodities; marking or identification at point of distribution or sale; publicity

obtain commitments from friendly purchasing countries that will insure, insofar as practicable, that food commodities sold for foreign currencies under this subchapter shall be marked or identified at point of distribution or sale as being provided on a concessional basis to the recipient government through the generosity of the people of the United States of America, and obtain commitments from purchasing countries to publicize widely to their people, by public media and other means, that the commodities are being provided on a concessional basis through the friendship of the American people as food for peace;

(m) Currency conversion

require foreign currencies to be convertible to dollars to the extent consistent with the effectuation of the purposes of this chapter and sections 1427 and 1431 of this title, but in any event to the extent necessary to (1) permit that portion of such currencies made available for payment of United States obligations to be used to meet obligations or charges payable by the United States or any of its agencies to the government of the importing country or any of its agencies, and (2) in the case of excess currency countries, assure convertibility by sale to American tourists, or otherwise, of such additional amount (up to twenty-five centum of the foreign currencies received pursuant to each agreement entered into after January 1, 1967) as may be necessary to cover all normal expenditures of American tourists in the importing country;

(n) Displacement of cash sales

take maximum precautions to assure that sales for dollars on credit terms under this chapter and sections 1427 and 1431 of this title shall not displace any sales of United States agricultural commodities which would otherwise be made for cash dollars;

(o) Commercial purchases of agricultural commodities; availability of commercial supplies for programs

take steps to assure that the United States obtains a fair share of any increase in commercial purchases of agricultural commodities by the purchasing country and that commercial supplies are available to meet demands developed through programs carried out under this chapter.

(p) Convertibility of foreign currencies received pursuant to sales to United States or purchasing country contractors for payment of wages

assure convertibility at such uniformly applied exchange rates as shall be agreed upon of up to 50 per centum of the foreign currencies received pursuant to each agreement by sale to United States or purchasing country contractors for payment of wages earned in the development and consummation of works of public improvement in the purchasing country; and

(q) Convertibility of foreign currencies received pursuant to sales to United States importers

assure convertibility of up to 50 per centum of the foreign currencies received pursuant to each agreement by sale to United States importers for the procurement of materials or commodities in the purchasing country.

(July 10, 1954, ch. 469, title I, § 103, 68 Stat. 456; Aug. 12, 1955, ch. 873, § 1, 69 Stat. 721; May 28, 1956, ch. 327, title II, § 208(a), 70 Stat. 201; Aug. 3, 1956, ch. 933, § 1, 70 Stat. 988; Aug. 13, 1957, Pub. L. 85-128, § 1(2), 71 Stat. 345; Sept. 6, 1958, Pub. L. 85-931, § 2, 72 Stat. 1790; Sept. 21, 1959, Pub. L. 86-341, title I, § 2, 73 Stat. 606; May 4, 1961, Pub. L. 87-28, 75 Stat. 64; Aug. 8, 1961, Pub. L. 87-128, title II, § 201(2), 75 Stat. 306; Oct. 8, 1964, Pub. L. 88-638, § 1(4), (5), 78 Stat. 1035; Nov. 11, 1966, Pub. L. 89-808, § 2(B), 80 Stat. 1526; July 29, 1968, Pub. L. 90-436, §§ 4, 5, 82 Stat. 450; Nov. 30, 1970, Pub. L. 91-524, title VII, § 703, as added Aug. 10, 1973, Pub. L. 93-86, § 1(26), 87 Stat. 237; Oct. 18, 1973, Pub. L. 93-125, § 1(e)(i), 87 Stat. 450; Dec. 20, 1975, Pub.L. 94-161, title II, § 203, 89 Stat. 851.)

CODIFICATION

In amendment to subsec. (o) of this section by Pub. L. 91-524 as added by Pub. L. 93-86 designation of amending provision of Pub. L. 91-524 was omitted. Pub. L. 93-125 provided for the designation of such amendment as section 703 of Pub. L. 91-524.

AMENDMENTS

1975—Subsec. (a). Pub. L. 94-161, § 203(1), substituted "efforts to increase their own agricultural production, especially through small, family farm agriculture, to improve their facilities for transportation, storage, and distribution of food commodities, and to reduce their rate of population growth" for "efforts to meet their problems of food production and population growth".

Subsec. (b). Pub. L. 94-161, § 203(2), substituted "section 1704 and in section 1706(b)(2) of this title" for "section 1704 of this title".

Subsec. (d). Pub. L. 94-161, § 203(3), substituted second proviso "Provided, That this exclusion from the definition of 'friendly country' may be waived by the President if he determines that such waiver is in the national interest and reports such determination to the Congress within 10 days of the date of such determination" for "Provided, That with respect to furnishing, selling, or selling and transporting to Cuba medical supplies, non-strategic raw materials for agriculture, and non-strategic agricultural or food commodities, sales agreements may be entered into if the President finds with respect to each such country and so informs the Senate and the House of Representatives of the reasons therefor, that the making of each such agreement would be in the national interest of the United States and all such findings and reasons therefor shall be published in the Federal Register".

1973—Subsec. (o). Pub. L. 91-524, § 703, as added by Pub. L. 93-86, added provision relating to availability of commercial supplies for programs.

1968—Subsec. (b). Pub. L. 90-436, § 4, made mandatory, except when determined by the President to be inconsistent with the objectives of this chapter and sections 1427 and 1431 of this title, the proviso that the President, in agreements for credit sales, require immediate payment in dollars or in foreign currencies upon delivery of the agricultural commodities, such

payment to be considered as an advance payment of the earliest obligations.

Subsecs. (o) to (q). Pub. L. 90-436, § 5, added subsecs. (o) to (q).

1966—Subsec. (a). Pub. L. 89-808 substituted provisions respecting self-help measures for meeting problems of food production and population growth for former provisions for appropriations for reimbursement of Commodity Credit Corporation, advance use of other funds, and classification of expenditures, now provided for in part by section 1733 of this title.

Subsec. (b). Pub. L. 89-808 substituted provisions respecting taking steps to assure a progressive transition from sales for foreign currencies to sales for dollars (such transition to be completed by December 31, 1971) but authorizing payment in foreign currencies for purposes of section 1704(a) to (c), (e), and (h) of this title for former limitation on transactions, now provided for by section 1710 of this title.

Subsec. (c). Pub. L. 89-808 redesignated provisions of former section 1701(a) of this title as subsec. (c), substituting "subchapter" for "chapter and sections 1427 and 1431 of this title".

Subsec. (d). Pub. L. 89-808 redesignated provisions of former section 1707 of this title as subsec. (d), provided for sales agreements only with friendly countries and for periodic reports to Congress of status of such countries, deleted from definition of "friendly country" (formerly "friendly nation") clause "(1) the U.S.S.R.", redesignated cls. (2) to (4) as (1) to (3), substituted therein "country" for "nation", deleted "or controlled" following "dominated" in cl. (2), amended cl. (3) to include North Vietnam, insert selling or furnishing ships or aircraft, substitute "so long as they are governed by a Communist regime" for ", so long as Cuba is governed by the Castro regime", and provided for entry into sales agreements when in the national interest for furnishing, selling, or selling and transporting to Cuba medical supplies, etc., upon information to Congress and publication in Federal Register, designated existing provisions as cl. (4), and substituted requirement of information to the President of the Senate of sales to United Arab Republic rather than the Foreign Relations Committee and Appropriations Committee of the Senate.

Subsec. (e). Pub. L. 89-808 redesignated provisions of former section 1701(b) of this title as subsec. (e), adding provision for the taking of steps to assure that small business has adequate and fair opportunity to participate in sales made under authority of this chapter.

Subsec. (f). Pub. L. 89-808 redesignated provisions of former section 1701(c) of this title as subsec. (f), substituting "the development and expansion of foreign markets for United States agricultural commodities" for "utilizing the authority and funds provided by this chapter and sections 1427 and 1431 of this title, in order to develop and expand continuous market demand abroad for agricultural commodities" and "emphasis on more adequate storage, handling, and food distribution facilities as well as long-term development of new and expanding markets by encouraging economic growth" for "emphasis on underdeveloped and new market areas".

Subsec. (g). Pub. L. 89-808 redesignated provisions of former section 1701(d) of this title as subsec. (g), substituted "obtain", "purchasing countries", and "subchapter" for "seek and secure", "participating countries", and "chapter and sections 1427 and 1431 of this title" and deleted "surplus" preceding "agricultural commodities".

Subsec. (h). Pub. L. 89-808 redesignated provisions of former section 1701(f) of this title as subsec. (h).

Subsec. (i). Pub. L. 89-808 added subsec. (i).

Subsec. (j). Pub. L. 89-808 incorporated in provisions added as subsec. (j) former section 1693 of this title, substituting "to be independent of domination or control by any world Communist movement" for "to be independent of trade with the Union of Soviet Socialist Republics or the Communist regime in China and with nations dominated or controlled by the Union of Soviet Socialist Republics" and "sales agreements under this subchapter with any government or organization controlling a world Communist movement or with any country with which the United States does not have diplomatic relations" for "transactions under this subchapter or subchapter I of this title with the Union of Soviet Socialist Republics or any of the areas dominated or controlled by the Communist regime in China" and deleted provision for prevention of increased availability of commodities to unfriendly nations.

Subsec. (k). Pub. L. 89-808 added subsec. (k).

Subsec. (l). Pub. L. 89-808 added subsec. (l).

Subsec. (m). Pub. L. 89-808 redesignated provisions of former section 1701(g) of this title as par. (1) and added par. (2).

Subsec. (n). Pub. L. 89-808 incorporated in provisions added as subsec. (n) part of former section 1734 of this title requiring the Secretary to take such reasonable precautions as he determines necessary to avoid replacing any sales which the Secretary found and determined would otherwise be made for cash dollars.

1964—Subsec. (a). Pub. L. 88-638, § 1(4), directed the President to classify expenditures under this chapter as for international affairs and finance rather than for agriculture and agricultural resources.

Subsec. (b). Pub. L. 88-638, § 1(5), substituted "1965" for "1962", "1966" for "1964", and "$2,700,000,000 plus any amount by which agreements entered into in prior years have called or will call for appropriations to reimburse the Commodity Credit Corporation in amounts less than authorized for such prior years by this chapter as in effect during such years" for "$4,500,000,000".

1961—Subsec. (b). Pub. L. 87-128 substituted authorization provision of $4,500,000,000 for period beginning January 1, 1962, and ending December 31, 1964, with a limitation of $2,500,000,000 for any one calendar year, for authorization provision of $1,500,000,000 plus any amount by which agreements entered into in the preceding calendar year called for appropriations in amount less than authorized for such preceding year by this chapter and sections 1427 and 1431 of this title as in effect during the preceding year for period beginning January 1, 1960, and ending December 31, 1961.

Pub. L. 87-28 authorized agreements during the calendar year 1961 calling for appropriations of not more than $3,500,000,000 plus any unused authority carried over from 1960.

1959—Subsec. (b). Pub. L. 86-341 substituted "in any calendar year during the period beginning January 1, 1960, and ending December 31, 1961" for "during the period beginning July 1, 1958, and ending December 31, 1959", "$1,500,000,000" for "$2,250,000,000", "in the preceding calendar year" for "in prior fiscal years", "for such preceding year" for "for such prior fiscal years", and "during such preceding year" for "during such fiscal years".

1958—Subsec. (b). Pub. L. 85-931 provided (1) for "agreements entered into" in place of "transactions carried out": (2) $2,250,000,000 for sales between July 1, 1958 and Dec. 31, 1959; and (3) for carrying over unused authorizations from one fiscal to succeeding fiscal years, and omitted the clause that limitation on sales shall not be apportioned by year or by country and shall be considered as an objective to be reached as rapidly as possible within the safeguards of this chapter.

1957—Subsec. (b). Pub. L. 85-128 substituted "$4,000,000,000" for "$3,000,000,000".

1956—Subsec. (a). Act May 28, 1956, authorized appropriations equal to all Commodity Credit Corporation funds expended for ocean freight costs.

Subsec. (b). Act Aug. 3, 1956, increased from $1,500,000,000 to $3,000,000,000 the limitation on sales.

1955—Subsec. (b). Act Aug. 12, 1955, increased from $700,000,000 to $1,500,000,000 the limitation on sales, and provided that this limitation shall not be apportioned by year or by country.

EFFECTIVE DATE OF 1966 AMENDMENT

Amendment by Pub. L. 89-808 effective Jan. 1, 1967, see section 5 of Pub. L. 89-808, set out as a note under section 1691 of this title.

EFFECTIVE DATE OF 1964 AMENDMENT

Section 1(5) of Pub. L. 88-638 provided in part that the amendment to subsec. (b) of this section shall be effective Jan. 1, 1965.

EFFECTIVE DATE OF 1961 AMENDMENT

Section 201(2) of Pub. L. 87-128 provided in part that the amendment of subsec. (b) of this section by Pub. L. 87-128 shall be effective Jan. 1, 1962.

EFFECTIVE DATE OF 1959 AMENDMENT

Section 2 of Pub. L. 86-341 provided in part that the amendment of subsec. (b) of this section by Pub. L. 86-341 shall be effective January 1, 1960.

DISPOSITION OF SURPLUS AGRICULTURAL COMMODITIES

Disposition of surplus agricultural commodities to foreign countries, see section 1922 of Title 22, Foreign Relations and Intercourse.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1706, 1707, 1708 of this title; title 22 section 2103.

§ 1704. Purposes for which foreign currencies may be used

Notwithstanding any other provision of law, the President may use or enter into agreements with foreign countries or international organizations to use the foreign currencies, including principal and interest from loan repayments, which accrue in connection with sales for foreign currencies under this subchapter for one or more of the following purposes:

(a) For payment of United States obligations (including obligations entered into pursuant to other legislation);

(b) For carrying out programs of United States Government agencies to—

(1) help develop new markets for United States agricultural commodities on a mutually benefitting basis. From sale proceeds and loan repayments under this subchapter not less than the equivalent of 5 per centum of the total sales made each year under this subchapter shall be set aside in the amounts and kinds of foreign currencies specified by the Secretary of Agriculture and made available in advance for use as provided by this paragraph over such period of years as the Secretary of Agriculture determines will most effectively carry out the purpose of this paragraph: *Provided,* That the Secretary of Agriculture may release such amounts of the foreign currencies so set aside as he determines cannot be effectively used for agricultural market development purposes under this section, except that no release shall be made until the expiration of thirty days following the date on which notice of such proposed release is transmitted by the President to the Senate Committee on Agriculture, Nutrition, and Forestry and the Senate Committee on Foreign Relations and to the House Committee on Agriculture and the House Committee on International Relations, if transmitted while Congress is in session, or sixty days following the date of transmittal if transmitted while Congress is not in session. Provision shall be made in sale and loan agreements for the convertibility of such amount of the proceeds thereof (not less than 2 per centum) as the Secretary of Agriculture determines to be needed to carry out the purpose of this paragraph in those countries which are or offer reasonable potential of becoming dollar markets for United States agricultural commodities. Such sums shall be converted into the types and kinds of foreign currencies as the Secretary deems necessary to carry out the provisions of this paragraph and such sums shall be deposited to a special Treasury account and shall not be made available or expended except for carrying out the provisions of this paragraph. Notwithstanding any other provision of law, if sufficient foreign currencies for carrying out the purpose of this paragraph in such countries are not otherwise available, the Secretary of Agriculture is authorized and directed to enter into agreements with such countries for the sale of agricultural commodities in such amounts as the Secretary of Agriculture determines to be adequate and for the use of the proceeds to carry out the purpose of this paragraph. In carrying out agricultural market development activities, nonprofit agricultural trade organizations shall be utilized to the maximum extent practicable. The purpose of this paragraph shall include such representation of agricultural industries as may be required during the course of discussions on trade programs relating either to individual commodities or groups of commodities;

(2) finance with not less than 2 per centum of the total sales proceeds received each year in each country activities to assist international educational and cultural exchange and to provide for the strengthening of the resources of American schools, colleges, universities, and other public and nonprofit private educational agencies for international studies and research under the programs authorized by title VI of the National Defense Education Act, [20 U.S.C. 511 et seq.], the Mutual Educational and Cultural Exchange Act of 1961 [22 U.S.C. 2451 et seq.], the International Education Act of 1966 [20 U.S.C. 1171 et seq.], the Higher Education Act of 1965 [20 U.S.C. 1001 et seq.], the Elementary and Secondary Education Act of 1965 [20 U.S.C. 821 et seq.], the National Foundation on the Arts and the Humanities Act of 1965 [20 U.S.C. 951 et seq.], and the Public Broadcasting Act of 1967 [47 U.S.C. 390 et seq.];

(3) collect, collate, translate, abstract, and disseminate scientific and technological information and conduct research and support scientific activities overseas including programs and projects of scientific cooperation between the United States and other countries such as coordinated research against diseases common to all of mankind or unique to individual regions of the globe, and promote and support programs of medical and scientific research, cultural and educational development, family planning, health, nutrition, and sanitation;

(4) acquire by purchase, lease, rental, or otherwise, sites and buildings and grounds abroad, for United States Government use including offices, residence quarters, community and other facilities, and construct, repair, alter, and furnish such buildings and facilities;

(5) finance under the direction of the Librarian of Congress, in consultation with the National Science Foundation and other interested agencies, (A) programs outside the United States for the analysis and evaluation of foreign books, periodicals, and other materials to determine whether they would provide information of technical or scientific significance in the United States and whether such books, periodicals, and other materials are of cultural or educational significance, (B) the registry, indexing, binding, reproduction, cataloging, abstracting, translating, and dissemination of books, periodicals, and related materials determined to have such significance; and (C) the acquisition of such books, periodicals, and other materials and the deposit thereof in libraries and research centers in the United States specializing in the areas to which they relate;

(c) Repealed. Pub. L. 94–161, title II, § 204(3), Dec. 20, 1975, 89 Stat. 852.

(d) For assistance to meet emergency or extraordinary relief requirements other than requirements for food commodities: *Provided,* That not more than a total amount equivalent to $5,000,000 may be made available for this purpose during any fiscal year;

(e) For use to the maximum extent under the procedures established by such agency as the President shall designate for loans to United States business firms (including cooperatives) and branches, subsidiaries, or affiliates of such firms for business development and trade expansion in such countries, including loans for private home construction, and for loans to domestic or foreign firms (including cooperatives) for the establishment of facilities for aiding in the utilization, distribution, or otherwise increasing the consumption of, and markets for, United States agricultural products: *Provided, however,* That no such loans shall be made for the manufacture of any products intended to be exported to the United States in competition with products produced in the United States and due consideration shall be given to the continued expansion of markets for United States agricultural commodities or the products thereof. Foreign currencies may be accepted in repayment of such loans;

(f) To promote multilateral trade and agricultural and other economic development, under procedures, established by the President, by loans or by use in any other manner which the President may determine to be in the national interest of the United States, particularly to assist programs of recipient countries designed to promote, increase, or improve food production, processing, distribution, or marketing in food-deficit countries friendly to the United States, for which purpose the President may utilize to the extent practicable the services of nonprofit voluntary agencies registered with and approved by the Advisory Committee on Voluntary Foreign Aid: *Provided,* That no such funds may be utilized to promote religious activities;

(g) For the purchase of goods or services for other friendly countries;

(h) For financing, at the request of such country, programs emphasizing maternal welfare, child health and nutrition, and activities, where participation is voluntary, related to the problems of population growth, under procedures established by the President through any agency of the United States, or through any local agency which he determines is qualified to administer such activities. Not less than 5 per centum of the total sales proceeds received each year shall, if requested by the foreign country, be used for voluntary programs to control population growth;

(i) For paying, to the maximum extent practicable, the costs outside the United States of carrying out the program authorized in section 1736 of this title;

(j) For sale for dollars to United States citizens and nonprofit organizations for travel or other purposes of currencies determined to be in excess of the needs of departments and agencies of the United States for such currencies. The United States dollars received from the sale of such foreign currencies shall be deposited to the account of Commodity Credit Corporation; and

(k) for paying, to the maximum extent practicable, the costs of carrying out programs for the control of rodents, insects, weeds, and other animal or plant pests;

Provided, That—

(1) Section 724 of title 31 shall apply to currencies used for the purposes specified in subsections (a) and (b) of this section, and in the case of currencies to be used for the purposes specified in paragraph (2) of subsection (b) of this section the Appropriation Act may specifically authorize the use of such currencies and shall not require the appropriation of dollars for the purchase of such currencies,

(2) Section 724 of title 31 shall apply to all foreign currencies used for grants under subsections (f) and (g) of this section, to not less than 10 per centum of the foreign currencies which accrue pursuant to agreements entered into on or before December 31, 1964, and to not less than 20 per centum in the aggregate of the foreign currencies which accrue pursuant to agreements entered into thereafter: *Provided, however,* That the President is authorized to waive such applicability of section 724 of title 31 in any case where he determines that it would be inappropriate or inconsistent with the purposes of this subchapter,

(3) No agreement or proposal to grant any foreign currencies (except as provided in subsection (c) of this section), or to use (except pursuant to appropriation Act) any principal or interest from loan repayments under this section shall be entered into or carried out until the expiration of thirty days following the date on which such agreement or proposal is transmitted by the President to the Senate Committee on Agriculture, Nutrition, and Forestry and the Senate Committee on Foreign Relations

and to the House Committee on Agriculture and the House Committee on International Relations, if transmitted while Congress is in session, or sixty days following the date of transmittal if transmitted while Congress is not in session.

(4) Any loan made under the authority of this section shall bear interest at such rate as the President may determine but not less than the cost of funds to the United States Treasury, taking into consideration the current average market yields on outstanding marketable obligations of the United States having maturity comparable to the maturity of such loans, unless the President shall in specific instances after consultation with the advisory committee established under section 1736a of this title designate a different rate:

Provided, further, That paragraphs (2), (3), and (4) of the foregoing proviso shall not apply in the case of any nation where the foreign currencies or credits owned by the United States and available for use by it in such nation are determined by the Secretary of the Treasury to be in excess of the normal requirements of the departments and agencies of the United States for expenditures in such nations for the two fiscal years following the fiscal year in which such determination is made. The amount of any such excess shall be devoted to the extent practicable and without regard to paragraph (1) of the foregoing proviso, to the acquisition of sites, buildings, and grounds under paragraph (4) of subsection (b) of this section and to assist such nation in undertaking self-help measures to increase its production of agricultural commodities and its facilities for storage and distribution of such commodities. Assistance under the foregoing provision shall be limited to self-help measures additional to those which would be undertaken without such assistance. Upon the determination by the Secretary of the Treasury that such an excess exists with respect to any nation, the President shall advise the Senate Committee on Agriculture, Nutrition, and Forestry and the Senate Committee on Foreign Relations and the House Committee on Agriculture and the House Committee on International Relations of such determination; and shall thereafter report to each such committee as often as may be necessary to keep such Committee advised as to the extent of such excess, the purposes for which it is used or proposed to be used, and the effects of such use.

(July 10, 1954, ch. 469, title I, § 104, 68 Stat. 456; Aug. 26, 1954, ch. 937, title V, § 544(h), (i), as added July 18, 1956, ch. 627, § 11(a), 70 Stat. 564; Aug. 3, 1956, ch. 933, § 2, 70 Stat. 988; Aug. 13, 1957, Pub. L. 85-128, § 1(4), 71 Stat. 345; Aug. 26, 1954, ch. 937, title V, § 544(c), as added Aug. 14, 1957, Pub. L. 85-141, § 11(b), 71 Stat. 365; June 30, 1958, Pub. L. 85-477, ch. V, § 502(*l*), 72 Stat. 275; Sept. 6, 1958, Pub. L. 85-931, § 3, 72 Stat. 1790; July 24, 1959, Pub. L. 86-108, ch. VII, § 701(d), 73 Stat. 258; Sept. 21, 1959, Pub. L. 86-341, title I, §§ 4-9, 73 Stat. 607; Aug. 8, 1961, Pub. L. 87-128, title II, § 201(3), 75 Stat. 306; Sept. 4, 1961, Pub. L. 87-195, pt. III, § 612(b), pt. IV, § 704, 75 Stat. 443, 463; Oct. 18, 1962, Pub. L. 87-839, § 2, 76 Stat. 1074; Dec. 16, 1963, Pub. L. 88-205, pt. III, § 301(d)(2), 77 Stat. 386; Oct. 8, 1964, Pub. L. 88-638, §§ 1(6)-(10), 2, 78 Stat. 1035-1038; Aug. 4, 1965, Pub. L. 89-106, § 5, 79 Stat. 432; Nov. 11, 1966, Pub. L. 89-808, § 2(B), 80 Stat. 1528; July 29, 1968, Pub. L. 90-436, §§ 2(a), 3, 6, 82 Stat. 450, 451; Nov. 30, 1970, Pub. L. 91-524, title VII, § 702, 84 Stat. 1379; Dec. 20, 1975, Pub. L. 94-161, title II, § 204, 89 Stat. 852; S. Res. 4, Feb. 4, 1977.)

REFERENCES IN TEXT

Title VI of the National Defense Education Act, referred to in subsec. (b)(2), is title VI of Pub. L. 85-864, Sept. 2, 1958, 72 Stat. 1593, and is classified to subchapter VI (§ 511 et seq.) of chapter 17 of Title 20, Education.

The Mutual Educational and Cultural Exchange Act of 1961, referred to in subsec. (b)(2), is Pub. L. 87-256, Sept. 21, 1961, 75 Stat. 527, and is classified generally to chapter 33 (§ 2451 et seq.) of Title 22, Foreign Relations and Intercourse. For complete classification of this Act to the Code, see Short Title note under section 2451 of Title 22.

The International Education Act of 1966, referred to in subsec. (b)(2), is Pub. L. 89-698, Oct. 29, 1966, 80 Stat. 1066, and is classified generally to chapter 29 (§ 1171 et seq.) of Title 20, Education. For complete classification of this Act to the Code, see Short Title note under section 1171 of Title 22.

The Higher Education Act of 1965, referred to in subsec. (b)(2), is Pub. L. 89-329, Nov. 8, 1965, 79 Stat. 1219, and is classified generally to chapter 28 (§ 1001 et seq.) of Title 20. For complete classification of this Act to the Code, see Short Title note under section 1001 of Title 20.

The Elementary and Secondary Education Act of 1965, referred to in subsec. (b)(2), is Pub. L. 89-10, Apr. 11, 1965, 79 Stat. 27, and is classified generally to chapter 24 (§ 821 et seq.) of Title 20. For complete classification of this Act to the Code, see Short Title note under section 821 of Title 20.

The National Foundation on the Arts and the Humanities Act of 1965, referred to in subsec. (b)(2), is Pub. L. 89-209, Sept. 29, 1965, 79 Stat. 845, and is classified generally to chapter 26 (§ 951 et seq.) of Title 20. For complete classification of this Act to the Code, see Short Title note under section 951 of Title 20.

The Public Broadcasting Act of 1967, referred to in subsec. (b)(2), is Pub. L. 90-129, Nov. 7, 1967, 81 Stat. 365, and is classified generally to section 390 et seq. of Title 47, Telegraphs, Telephones, and Radiotelegraphs. For complete classification of this Act to the Code, see Short Title note under section 390 of Title 47.

AMENDMENTS

1975—Pub. L. 94-161 inserted references to the House Committee on International Relations and the Senate Committee on Foreign Relations in the first proviso of subsec. (b)(1), in par. (3) of the penultimate proviso following subsec. (k), and in the end sentence of the section and repealed subsec. (c) reading "To procure equipment, materials, facilities, and services for the common defense including internal security;", respectively.

1970—Pub. L. 91-524 added provision allowing appropriation acts to specifically authorize the use of foreign currencies in the educational and cultural exchange program without requiring the appropriation of dollars for the purchase of those same foreign currencies.

1968—Subsec. (b)(2). Pub. L. 90-436, § 3, authorized the financing with at least 2 percent of the total sales proceeds each year in each country of additional activities to strengthen the resources of American schools, colleges, universities, and other public and nonprofit private educational agencies for international studies and research pursuant to programs authorized by title VI of the National Defense Education Act, the Mutual Educational and Cultural Exchange

Act of 1961, the International Education Act of 1966, the Higher Education Act of 1965, the Elementary and Secondary Education Act of 1965, the National Foundation on the Arts and the Humanities Act of 1965, and the Public Broadcasting Act of 1967.

Subsec. (h). Pub. L. 90-436, § 2(a), added provision that not less than 5 percent of the total sales proceeds, if requested by the foreign country, be used for voluntary programs to control population growth.

Subsec. (k). Pub. L. 90-436, § 6, added subsec. (k).

1966—Pub. L. 89-808, in the introductory text, deleted "section 724 of Title 31, or" following "Notwithstanding", substituted "foreign countries or international organizations" for "friendly nations, or organizations of nations", and inserted "in connection with sales for foreign currencies" following "accrue".

Subsec. (a). Pub. L. 89-808 redesignated former subsec. (f) as (a), deleting "abroad" following "obligations" and adding parenthetical matter relating to "(including obligations entered into pursuant to other legislation)". Former subsec. (a) redesignated (b)(1).

Subsec. (b). Pub. L. 89-808 eliminated former subsec. (b) which provided for purchase, in such amounts as may be specified from time to time in appropriation acts, strategic or other materials for a supplemental stockpile of such materials as the president may determine from time to time.

Subsec. (b)(1). Pub. L. 89-808 redesignated former subsec. (a) as (b)(1), inserted the phrase "For carrying out programs of United States Government agencies to—" preceding par. (1) and restriction against making a release until expiration of requisite number of days following transmittal to congressional committees, deleted "after September 21, 1959," preceding "shall be set aside" and "Provided further, That no such funds shall be allocated under this subsection after June 30, 1960, except as may be specified from time to time, in appropriation acts" preceding convertibility of proceeds provision, substituted "as he determines cannot be effectively used for agricultural market development purposes under this section" for "as he determines not to be needed, within a reasonable period of time, for such purpose:" and "sale of agricultural commodities" for "sale of surplus agricultural commodities" and added provisions of utilization of nonprofit agricultural trade organizations to maximum extent possible in carrying out agricultural market development activities and inclusion as a purpose of subsec. (b) such representation of agricultural industries as may be required during course of discussions on trade programs relating either to individual commodities or groups of commodities.

Subsec. (b)(2). Pub. L. 89-808 incorporated in provisions designated as par. (2) provisions of former subsec. (h) which provided for financing of international exchange activities under programs authorized by section 1641(b)(2) of Appendix to Title 50 and for financing in such amounts as may be specified from time to time in appropriation acts of programs for interchange of persons under section 1446 of title with a particular effort for allocation of funds with regard to countries where adequate funds are not available from other sources for such purposes and countries where agreements can be negotiated to establish a fund to be available over a period of years for such purposes, including setting aside of such amounts from sale proceeds and loan repayments not in excess of $1,000,000 a year in any one country for not more than 5 years in advance, as determined to be required for such purposes by the Secretary of State.

Subsec. (b)(3). Pub. L. 89-808 redesignated former subsec. (k) as par. (3), included use of foreign currencies for family planning programs, and deleted subsec. (k) proviso for availability of foreign currencies for subsec. (k) purposes (in addition to funds otherwise made available for such purposes) only in such amounts as may be specified from time to time in appropriation Acts.

Subsec. (b)(4). Pub. L. 89-808 redesignated former subsec. (*l*) as par. (4), deleting subsec. (*l*) proviso for availability of foreign currencies for subsec. (*l*) purposes (in addition to funds otherwise made available for such purposes) in such amounts as may be specified from time to time in appropriation acts.

Subsec. (b)(5). Pub. L. 89-808 redesignated former subsec. (n)(1) to (3) as par. (5)(A) to (C), deleting provision for use of foreign currencies "in such amounts as may be specified from time to time in appropriation acts".

Subsec. (c). Pub. L. 89-808 reenacted existing provisions.

Subsec. (d). Pub. L. 89-808 redesignated former subsec. (q) as (d). Former subsec. (d) redesignated (g).

Subsec. (e). Pub. L. 89-808 substituted provisions for use of foreign currencies to maximum extent and for due consideration to be given to the continued expansion of markets for United States agricultural commodities or products thereof in the proviso for former provisions for availability of such currencies to maximum usable extent and for manufacture or production of any commodity to be marketed in competition with United States agricultural commodities or products thereof in the proviso, authorized loans to cooperatives and for private home construction in foreign countries, deleted introductory phrase for uses of such currencies "For promoting balanced economic development and trade among nations", and that loans be mutually agreeable to the agency and the country making the agreement, and inserted the word "intended" in the proviso.

Subsec. (f). Pub. L. 89-808 redesignated former subsec. (g) as (f), provided for promotion of agricultural development, establishment of procedures by the President, use of funds in any other manner than loans as determined by the President to be in the national interest, assistance to programs of recipient countries designed to promote, increase, or improve food production, processing, distribution, or marketing in food-deficit countries friendly to the United States, and utilization for such purpose to extent practicable the services of registered and approved nonprofit voluntary agencies, prohibited use of funds to promote religious activities, and deleted provisions for loans made through established banking facilities of the friendly nation from which the foreign currency was obtained or in any other manner which the President may deem to be appropriate and authorization for acceptance of strategic materials, services, or foreign currencies in payment of such loans. Former subsec. (f) redesignated (a).

Subsec. (g). Pub. L. 89-808 redesignated former subsec. (d) as (g), deleting "financing" preceding "the purchase". Former subsec. (g) redesignated (f).

Subsec. (h). Pub. L. 89-808 added subsec. (h) Former subsec. (h) redesignated (b)(2).

Subsec. (i). Pub. L. 89-808 substituted provisions respecting use of foreign currencies for paying costs outside the United States of carrying out food production assistance programs for former provisions for financing ($5,000,000 fiscal year limitation) translation, publication, and distribution of books and periodicals, including Government publications, abroad.

Subsec. (j). Pub. L. 89-808 redesignated former subsec. (t) as (j), authorized sale of foreign currencies to nonprofit organizations, and deleted provisions making the currencies available for sale at United States embassies or other convenient locations, describing such currencies as acquired through operations under Foreign Assistance Act of 1961, as amended, Mutual Security Act of 1954, as amended, or any Act repealed thereby, or Agricultural Trade Development and Assistance Act of 1954, as amended, prohibiting such sales for travel purposes under agreement entered into with another country or when so committed by agreement to other uses, depositing dollars from such sales into United States Treasury as miscellaneous receipts, and treating dollars deposited into the CCC account as a reimbursement under section 1705 of this title. Former subsec. (j) provided for assistance to schools, libraries, and community centers abroad founded or sponsored by United States citizens

and serving as demonstration centers, and is now covered by subsec. (b)(2) of this section.

Subsecs. (k), (*l*). Pub. L. 89-808 redesignated former subsecs. (k) and (*l*) as (b)(3) and (4).

Subsec. (m). Pub. L. 89-808 eliminated subsec. (m) which provided for financing in such amounts as may be specified from time to time in appropriation acts trade fair participation and related activities and agricultural and horticultural fair participation and related activities.

Subsec. (n). Pub. L. 89-808 redesignated former subsec. (n) as (b)(5).

Subsecs. (o), (p). Pub. L. 89-808 eliminated subsec. (o) which provided for assistance, in such amounts as may be specified from time to time in appropriation acts, in expansions or operation in foreign countries of schools, colleges, or universities founded or sponsored by United States citizens for carrying out programs of vocational, professional, scientific, technological, or general education, and subsec. (p) which provided for supporting workshops in American studies or American educational techniques, and supporting chairs in American studies.

Subsec. (q). Pub. L. 89-808 redesignated former subsec. (q) as (d).

Subsec. (r). Pub. L. 89-808 eliminated subsec. (r) which provided for financing ($2,500,000 fiscal year limitation) preparation, distribution, and exhibition of audio-visual informational and educational materials abroad without limiting or affecting use of foreign currencies for such materials in connection with trade fairs and other market development activities under former subsec. (a) of this section.

Subsecs. (s), (t). Pub. L. 89-808 incorporated former subsecs. (s) and (t) in subsec. (j), eliminating from former subsec. (s) the language "under such terms and conditions as the President may prescribe".

Penultimate proviso. Pub. L. 89-808 incorporated part of existing proviso following subsec. (t) in provisions designated as par. (1) and inserted therein reference to subsec. (b).

Pub. L. 89-808 incorporated part of existing initial proviso and second proviso following subsec. (t) in provisions designated as par. (2), substituted references to subsecs. (f) and (g) for (d) and (e), and deleted a third proviso restricting the availability of foreign currencies pursuant to subsecs. (k), (p), and (r) to such amounts as may be specified from time to time in appropriation Acts.

Pub. L. 89-808 redesignated penultimate par. as par. (3) and deleted "and then only if, between the date of transmittal and the expiration of such period there has not been passed by either of the two Committees a resolution stating in substance that that Committee does not favor such agreement or proposal" following "sessions.".

Pub. L. 89-808 redesignated last par. as par. (4) and substituted "after consultation with the advisory committee established under section 1736a of this title" for "upon the recommendation of the advisory committee herein established".

Ultimate proviso. Pub. L. 89-808 added ultimate proviso making pars. (2) to (4) of penultimate proviso inapplicable in the case of any nation where the foreign currencies or credits owned by the United States and available for use by it in such nation are determined by the Secretary of the Treasury to be in excess of the normal requirements of Federal departments and agencies for expenditures in such nations for two fiscal years following fiscal year in which such determination is made.

Concluding text. Pub. L. 89-808 added provisions for devotion of excess foreign currencies to acquisition of sites, buildings, and grounds under subsec. (b)(4) of this section, for assistance in self-help measures, and for reports to congressional committees of determinations of existence of excess foreign currencies with respect to any nation, uses for such excess, and effects of such use.

Pub. L. 89-808 eliminated pars. for establishment of an advisory committee and for consultations with such committee respecting loan, currency convertibility, and currency reservations (in sales agreements) policies and for establishment of higher than minimum interest rate for dollar sales. Advisory committee provisions are now covered in section 1736a of this title.

1965—Subsec. (a). Pub. L. 89-106 authorized the Secretary of Agriculture to release such amounts of the foreign currencies set aside for the market development program as he determined not to be needed, within a reasonable period of time, for that purpose.

1964—Subsec. (c). Pub. L. 88-638, § 1(6), inserted "including internal security" and deleted "military" preceding "equipment".

Subsec. (e). Pub. L. 88-638, § 1(7), substituted "currencies shall also be available to the maximum usable extent" for "not more than 25 per centum of the currencies received pursuant to each such agreement shall be available".

Subsec. (t). Pub. L. 88-638, § 2, redesignated former subsec. (b) of section 612 of Pub. L. 87-195, as subsec. (t) of this section, inserted "For sale to United States citizens as provided herein", substituted "the Foreign Assistance Act of 1961, as amended" for "this chapter", and provided that except in the case of foreign currencies acquired under this subchapter, dollars received from the sale of foreign currencies shall be deposited to the account of the Commodity Credit Corporation and shall be treated as a reimbursement to such Corporation.

Pub. L. 88-638, § 1(8) to (10), established an advisory committee, specified its composition, directed it to review the status and usage of foreign currencies accruing under this subchapter and to make various recommendations, provided that the committee be consulted with respect to various matters, for the transmittal of certain proposals to congressional committees, and that any loan under this section shall bear interest as the President shall determine, within certain limits and taking various matters into consideration, and inserted "pursuant to agreements entered into on or before December 31, 1964 and to not less than 20 per centum in the aggregate of the foreign currencies which accrue pursuant to agreements entered into thereafter" in the first proviso.

1963—Subsec. (t). Pub. L. 88-205 designated added section 612(b) to Pub. L. 87-195, which is designated as subsec. (t) of this section.

1962—Subsec. (m). Pub. L. 87-839 inserted "or section 1122b of Title 46".

1961—Pub. L. 87-128, § 201(3)(a), inserted ", including principal and interest from loan repayments," following "foreign currencies", in the opening provisions.

Subsec. (a). Pub. L. 87-128, § 201(3)(d), inserted, in the second sentence, "each year" following "made" and "set aside in the amounts and kinds of foreign currencies specified by the Secretary of Agriculture and" following "be", where "made" and "be" first appear; substituted, in the third sentence, "Provision shall be made" for "Particular regard shall be given to provide" and "the Secretary of Agriculture determines to" for "may" and inserted "(not less than 2 per centum)" following "thereof"; inserted the sentence concerning conversion of monies into foreign currencies and deposit in special Treasury account; and substituted, in the last sentence, "the Secretary of Agriculture is authorized and directed to enter into agreements" for "agreements may be entered into".

Subsec. (e). Pub. L. 87-195 substituted "procedures established by such agency as the President shall direct for loans mutually agreeable to said agency" for "procedures established by the Export-Import Bank for loans mutually agreeable to said bank".

Subsec. (s). Pub. L. 87-128, § 201(3)(c), added subsec. (s).

Pub. L. 87-128, § 201(3)(b), substituted in the final proviso "pursuant to" for "for the purpose of subsection (p) of this section, except in such amounts as may be specified from time to time in appropriation Acts, and no foreign currencies shall be allocated under any provision of this chapter and sections 1427 and 1431 of

this title after June 30, 1960, for the purposes specified in".

1959—Subsec. (a). Pub. L. 86-341, § 4, provided that from sale proceeds and loan repayments under this subchapter not less than the equivalent of 5 per centum of the total sales made under this subchapter after September 21, 1959, shall be made available in advance for use as provided by this subsection over such period of years as the Secretary of Agriculture determines will most effectively carry out the purposes of this subsection, prohibited the allocation of such funds after June 30, 1960, except as may be specified in appropriation acts, required particular regard to be given for provisions in sale and loan agreements for the convertibility of such amount of the proceeds thereof as may be needed to carry out the purpose of this subsection in those countries which are or offer reasonable potential of becoming dollar markets for United States agricultural commodities, and permitted the entering into agreements for the sale of surplus agricultural commodities in such amounts as the Secretary of Agriculture determines to be adequate and for the use of the proceeds to carry out the purpose of this subsection in cases where sufficient foreign currencies for carrying out the purpose of this subsection in such countries are not otherwise available.

Subsec. (b). Pub. L. 86-341, § 5, among other changes, substituted "strategic or other materials" for "strategic and critical materials" in two instances, limited purchases or contracts to purchase to such amounts as may be specified from time to time in appropriation acts, and eliminated provisions which authorized contracts, including advance payment contracts, for supply extending over periods up to ten years, and which permitted the strategic and critical materials acquired under authority of this subchapter to be additional to the amounts acquired under authority of the Strategic and Critical Materials Stockpile Act.

Subsec. (k). Pub. L. 86-341, § 6, authorized the use of foreign currencies to promote and support programs of medical and scientific research, cultural and educational development, health, nutrition, and sanitation.

Pub. L. 86-108 substituted in subsec. (k) "conduct research and support" for "conduct and support", and ": *Provided,* That foreign currencies shall be available for the purposes of this subsection (in addition to funds otherwise made available for such purposes) only in such amounts as may be specified from time to time in appropriation Acts;" for ", but no foreign currencies shall be used for the purposes of this subsection unless specific appropriations be made therefor;".

Subsec. (*o*). Pub. L. 86-341, § 7, eliminated provisions which permitted the use of foreign currencies in the supporting of workshops in American studies or American educational techniques, and supporting chairs in American studies. See subsec. (p) of this section.

Subsecs. (p) to (r). Pub. L. 86-341, § 8, added subsecs. (p) to (r).

Pub. L. 86-341, § 9, added proviso in closing provisions limiting availability of foreign currencies for the purpose of subsec. (p) of this section to such amounts as may be specified from time to time in appropriation Acts, and prohibiting allocation of foreign currencies after June 30, 1960, for the purposes specified in subsections (k), (p), and (r) of this section to such amounts as may be specified from time to time in appropriation Acts.

1958—Subsec. (h). Pub. L. 85-931, § 3(a), authorized use of foreign currencies to finance programs for interchange of persons between United States and foreign countries.

Subsec. (k). Pub. L. 85-477 added subsec. (k).

Subsecs. (*l*) to (*o*). Pub. L. 85-931, § 3(b), added subsecs. (*l*) to (*o*).

1957—Subsec. (e). Pub. L. 85-128 provided that not more than 25 percent of the currencies received pursuant to each agreement be available through the Export-Import Bank for loans mutually agreeable to said bank and the country with which the agreement is made for business development in such countries and for loans to domestic or foreign firms for facilities to aid markets for United States agricultural products, provided no such loans be made for the manufacture of products to be exported to United States in competition with United States products or for manufacture or production of any commodity to be marketed in competition with United States agricultural commodities or products thereof, and that foreign currencies may be accepted in repayment of such loans.

Subsec. (h). Pub. L. 85-141, 11(b)(2), added section 544(c) to act Aug. 26, 1954, which section inserted provisions in this subsection authorizing the setting aside of amounts from sale proceeds and loan repayments.

1956—Subsec. (h). Act July 18, 1956, added section 544(h) to act Aug. 26, 1954, which section inserted provisions in this section relating to allocation of funds and to the special and particular effort to be made to provide for the purposes of this subsection.

Subsec. (i). Act Aug. 26, 1954, § 544(i), as added by act July 18, 1956, added subsec. (i).

Subsec. (j). Act Aug. 3, 1956, added subsec. (j).

Change of Name

The Committee on Agriculture and Forestry of the Senate was abolished and replaced by the Committee on Agriculture, Nutrition, and Forestry of the Senate, effective Feb. 11, 1977. See Rule XXV of the Standing Rules of the Senate, as amended by Senate Resolution 4 (popularly cited as the "Committee System Reorganization Amendments of 1977"), approved Feb. 4, 1977.

Effective Date of 1966 Amendment

Amendment by Pub. L. 89-808 effective Jan. 1, 1967, see section 5 of Pub. L. 89-808, set out as a note under section 1691 of this title.

Repeals

Section 704 of Pub. L. 87-195, which amended this section, was repealed by section 401 of Pub. L. 87-565, pt. IV, Aug. 1, 1962, 76 Stat. 263, except insofar as section 704 affected this section.

Pub. L. 85-477, ch. IV, § 401(h), June 30, 1958, 72 Stat. 270, repealed section 544(c) of act Aug. 26, 1954, except insofar as such section 544(c) affected this section.

Pub. L. 85-141, § 11(b)(1), repealed section 544(h), (i) of act Aug. 26, 1954, except insofar as such section 544(h), (i) affected this section.

Delegation of Functions

Functions of the President under this section delegated to the Secretary of State, Director of the Bureau of the Budget [now Director of the Office of Management and Budget], Director of the [former] Office of Civil and Defense Mobilization and the [former] Development Loan Fund, see section 4 of Ex. Ord. No. 10900, Jan. 5, 1961, 26 F.R. 143, set out as a note under section 1691 of this title.

Termination of Advisory Committees

Advisory Committees in existence on Jan. 5, 1973, to terminate not later than the expiration of the two-year period following Jan. 5, 1973, unless, in the case of a committee established by the President or an officer of the Federal Government, such committee is renewed by appropriate action prior to the expiration of such two-year period, or in the case of a committee established by the Congress, its duration is otherwise provided by law, see section 14 of Pub. L. 92-463, Oct. 6, 1972, 86 Stat. 770, set out in the Appendix to Title 5, Government Organization and Employees.

Limitation on Use of Foreign Currencies for Participation in Trade, Agricultural and Horticultural Fairs

Pub. L. 86-30, title I, § 101, May 20, 1959, 73 Stat. 35, provided that: "Subject to allocation in such manner as may now or hereafter be prescribed by the President, foreign currencies which have accrued under

title I of the Agricultural Trade Development and Assistance Act of 1954, as amended (7 U.S.C. 1704) [this section] may be used without fiscal year limitation for the purposes of section 104(m) of that Act [former subsec. (m) of this section], including administrative expenses directly related thereto, in an amount not to exceed the equivalent of $1,275,000."

INTERNATIONAL COOPERATION IN HEALTH RESEARCH, RESEARCH TRAINING, AND RESEARCH PLANNING

Use of foreign currencies accruing under this subchapter to carry out purposes of International Health Research Act of 1960, see section 2103 of Title 22, Foreign Relations and Intercourse.

DISPOSITION OF SURPLUS AGRICULTURAL COMMODITIES

Disposition of surplus agricultural commodities to foreign countries, see section 1922 of Title 22, Foreign Relations and Intercourse.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1703, 1705, 1709, 1733, 1736, 1736a, 1856 of this title; title 22 sections 1922, 2103.

§ 1704a. Agreements for use of foreign currencies; reports to Congress

Within sixty days after any agreement is entered into for the use of any foreign currencies, a full report thereon shall be made to the Senate and the House of Representatives of the United States and to the Committees on Agriculture and Appropriations thereof.

(Pub. L. 85-128, § 1(5), Aug. 13, 1957, 71 Stat. 345.)

CODIFICATION

Section was not enacted as a part of the Agricultural Trade Development and Assistance Act of 1954 which comprises this chapter. See Short Title note under section 1691 of this title for classification of such Act.

§ 1704b. Utilization of foreign currencies for construction of military projects; reimbursement of Commodity Credit Corporation

In carrying out in a foreign country any project authorized by this Act or any other Military Construction Act heretofore or hereafter enacted, currencies of such country acquired pursuant to the provisions of this chapter and sections 1427 and 1431 of this title shall, to the extent available and feasible, be used in lieu of dollars. The Department of Defense shall reimburse the Commodity Credit Corporation for any foreign currencies so utilized in carrying out such projects.

(Pub. L. 86-149, title IV, § 420, Aug. 10, 1959, 73 Stat. 324.)

REFERENCES IN TEXT

This Act, referred to in text, means the Military Construction Act of 1959, Pub. L. 86-149, §§ 101 to 602, Aug. 10, 1959, 73 Stat. 302. For classification of this Act to the Code, see Tables volume.

CODIFICATION

Section was not enacted as part of the Agricultural Trade Development and Assistance Act of 1954 which comprises this chapter. See Short Title note under section 1691 of this title for classification of such Act.

PAYMENT FROM FOREIGN CURRENCIES FOR FAMILY HOUSING PROJECTS OR COMMUNITY FACILITIES CONSTRUCTED OR ACQUIRED BY DEPARTMENT OF DEFENSE

Section 509 of Pub. L. 86-500, title V, June 8, 1960, 74 Stat. 186, provided that:

"Notwithstanding the provisions of any other law, at least 75 per centum of the total cost of any family housing project or community facility hereafter constructed or acquired in any foreign country by the Department of Defense or any military department shall be paid for from foreign currencies acquired by the Commodity Credit Corporation pursuant to the provisions of the Agricultural Trade Development and Assistance Act of 1954 [this chapter]; except that the following projects authorized pursuant to this Act shall not be subject to this requirement:

"Air Force activities, Japan, one hundred fifty units;

"Cigli Air Base, Turkey, community facilities;

"Clark Air Force Base, Philippine Islands, one hundred units;

"Iraklion Air Station, Crete, community facilities;

"Kirknewton RAF, United Kingdom, fifty units;

"Naval Air Station, Naha, Okinawa, two hundred; and

"Site I-5, Italy, one hundred units and community facilities."

§ 1705. Deposit of foreign currencies in special account; reimbursements to Commodity Credit Corporation of sums used by other agencies; reduction of deficits in balance of payments

Foreign currencies received pursuant to this chapter and sections 1427 and 1431 of this title shall be deposited in a special account to the credit of the United States and shall be used only pursuant to section 1704 of this title, and any department or agency of the Government using any of such currencies for a purpose for which funds have been appropriated shall reimburse the Commodity Credit Corporation in an amount equivalent to the dollar value of the currencies used. The President shall utilize foreign currencies received pursuant to this chapter and sections 1427 and 1431 of this title in such manner as will, to the maximum extent possible, reduce any deficit in the balance of payments of the United States.

(July 10, 1954, ch. 469, title I, § 105, 68 Stat. 457; Dec. 16, 1963, Pub. L. 88-205, pt. IV, § 403(b), 77 Stat. 390; Nov. 11, 1966, Pub. L. 89-808, § 2(B), 80 Stat. 1532.)

AMENDMENTS

1966—Pub. L. 89-808 substituted "chapter and sections 1427 and 1431 of this title" for "subchapter" in two instances.

1963—Pub. L. 88-205 required the President to utilize foreign currencies received pursuant to this subchapter in such manner as will, to the maximum extent possible, reduce any deficit in the balance of payments of the United States.

EFFECTIVE DATE OF 1966 AMENDMENT

Amendment by Pub. L. 89-808 effective Jan. 1, 1967, see section 5 of Pub. L. 89-808, set out as a note under section 1691 of this title.

DISPOSITION OF SURPLUS AGRICULTURAL COMMODITIES

Disposition of surplus agricultural commodities to foreign countries, see section 1922 of Title 22, Foreign Relations and Intercourse.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1703, 1709, 1733, 1736a of this title; title 22 sections 2103, 2314.

§ 1706. Payment for commodities

(a) Dollar credit sales; period

Payment by any friendly country for commodities purchased for dollars on credit shall be upon terms as favorable to the United States as the economy of such country will permit. Payment for such commodities shall be in dollars with interest at such rates as the Secretary may determine but not less than the minimum rate required by section 2161 of title 22 for loans made under that section. Payment may be made in reasonable annual amounts over periods of not to exceed twenty years from the date of the last delivery of commodities in each calendar year under the agreement, except that the date for beginning such annual payment may be deferred for a period not later than two years after such date of last delivery, and interest shall be computed from the date of such last delivery. Delivery of such commodities shall be made in annual installments for not more than ten years following the date of the sales agreement and subject to the availability of the commodities at the time delivery is to be made.

(b) Sales agreement provisions for use of proceeds for prescribed purposes and programs; payments: prescribed uses as section 1703(b) payments, limitation of amount, report to Congress; priority to sales agreements with countries conforming to certain requirements in their agricultural development plans

(1) Agreements hereunder for the sale of agricultural commodities for dollars on credit terms shall include provisions to assure that the proceeds from the sale of the commodities in the recipient country are used for such economic development purposes as are agreed upon in the sales agreement or any amendment thereto. In negotiating such agreements with recipient countries, the United States shall emphasize the use of such proceeds for purposes which directly improve the lives of the poorest of their people and their capacity to participate in the development of their countries.

(2) Greatest emphasis shall be placed on the use of such proceeds to carry out programs of agricultural development, rural development, nutrition, and population planning, and to carry out the program described in section 1736(a)(1) of this title, in those countries which are undertaking self-help measures to increase agricultural production, improve storage, transportation, and distribution of commodities, and reduce population growth in accordance with section 1709 of this title, and which programs are directed at and likely to achieve the policy objectives of sections 2151a and 2151b of title 22 and are consistent with the policy objectives of this chapter, pursuant to agreements between the United States and foreign governments under which uses of such proceeds shall be made for such purposes. Such uses shall be deemed payments for the purpose of section 1703(b) of this title, except that for any fiscal year the total value of such payments may not exceed 15 per centum of the total value of all agreements entered into under this subchapter for such fiscal year. Such payments shall be described in the reports required by section 1736b of this title and section 2417 of title 22.

(3) In entering into agreements for the sale of agricultural commodities for dollars on credit terms under this subchapter, priority shall be given to countries which agree to use the proceeds from the sale of the commodities in accordance with the country's agricultural development plan which—

(A) is designed to increase the access of the poor in recipient country to an adequate, nutritious, and stable food supply;

(B) provides for such objectives as—

(i) making farm production equipment and facilities available to farmers,

(ii) credit on reasonable terms and conditions for small farmers, and

(iii) farm extension and technical information services designed to improve the marketing, storage, transportation, and distribution system for agricultural commodities and to develop the physical and institutional infrastructure supporting the small farmer;

(C) provides for participation by the poor, insofar as possible, in the foregoing at the regional and local levels; and

(D) is designed to reach the largest practicable number of farmers in the recipient country.

(July 10, 1954, ch. 469, title I, § 106, 68 Stat. 457; Aug. 12, 1955, ch. 873, § 2, 69 Stat. 721; Aug. 8, 1961, Pub. L. 87-128, title II, § 201(4), 75 Stat. 307; Dec. 16, 1963, Pub. L. 88-205, pt. IV, § 403 (c)(1), 77 Stat. 390; Nov. 11, 1966, Pub. L. 89-808, § 2(B), 80 Stat. 1532; Dec. 20, 1975, Pub. L. 94-161, title II, § 205, 89 Stat. 852.)

AMENDMENTS

1975—Subsec. (b)(1). Pub. L. 94-161, § 205(1), (2), designated existing provisions as par. (1) and added requirement that the United States, in negotiating sales agreements with recipient countries, emphasize the use of proceeds for purposes which directly improve the lives of the poorest of their people and their capacity to participate in the development of their countries.

Subsecs. (b)(2), (3). Pub. L. 94-161, § 205(3), added pars. (2) and (3).

1966—Pub. L. 89-808 substituted provisions of subsec. (a), formerly covered in part of former section 1732 and in former section 1733 of this title (adding thereto requirement for payment by friendly country for commodities upon terms as favorable to the United States as the economy of such country will permit), and requirement of subsec. (b) for sales agreement provision for use of sales proceeds for economic development purposes, for former provisions defining "surplus agricultural commodity" and authorizing determination by Secretary of Agriculture of nations with whom agreements shall be negotiated.

1963—Pub. L. 88-205 included domestically produced fishery products in the definition of "surplus agricultural commodity" for the purposes of this subchapter and subchapter IV of this chapter.

1961—Pub. L. 87-128 substituted "at the time of exportation or donation" for "or may reasonably be expected to be".

1955—Act Aug. 12, 1955, authorized the Secretary of Agriculture to determine the nations with whom agreements shall be negotiated and the commodities and quantities which may be included in the negotiations.

EFFECTIVE DATE OF 1966 AMENDMENT

Amendment by Pub. L. 89-808 effective Jan. 1, 1967, see section 5 of Pub. L. 89-808, set out as a note under section 1691 of this title.

EFFECTIVE DATE OF 1963 AMENDMENT

Section 403(c)(2) of Pub. L. 88-205 provided that: "The amendment made by paragraph (1) of this subsection [to this section] shall not be effective for purposes of title I of the Agricultural Trade Development and Assistance Act of 1954, as amended [this subchapter], until January 1, 1965."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1703, 1707 of this title; title 22 section 2103.

§ 1707. Private trade and enterprise

(a) Declaration of policy; export sales agreements; period; credit terms; storage and marketing facilities; stimulation and expansion of economic enterprise; security for payments; interest; duration of delivery period, deferral of first payment, or term of credit; use to maximum extent practicable of authority for making dollar sales

It is also the policy of the Congress to stimulate and maximize the sale of United States agricultural commodities for dollars through the private trade and to further the use of private enterprise to the maximum, thereby strengthening the development and expansion of foreign commercial markets for United States agricultural commodities. In furtherance of this policy, the Secretary of Agriculture is authorized, notwithstanding any other provision of law, to enter into agreements with foreign and United States private trade for financing the sale of agricultural commodities for export over such periods of time and on such credit terms as the Secretary determines will accomplish the objectives of this section. Any agreement entered into under this section shall provide for the development and execution of projects which will result in the establishment of facilities designed to improve the storage or marketing of agricultural commodities, or which will otherwise stimulate and expand private economic enterprise in any friendly country. Any agreement entered into under this section shall also provide for the furnishing of such security as the Secretary determines necessary to provide reasonable and adequate assurance of payment of the purchase price in dollars with interest at a rate which will as nearly as practicable be equivalent to the average cost of funds to the United States Treasury, as determined by the Secretary of the Treasury, on outstanding marketable obligations of the United States having maturities comparable to maturities of credits extended under this section. In no event shall the rate of interest be less than the minimum rate, or the delivery period, deferral of first payment, or term of credit be longer than the maximum term, authorized in section 1706 of this title. In carrying out this chapter and sections 1427 and 1431 of this title, the authority provided in this section for making dollar sales shall be used to the maximum extent practicable.

(b) Safeguarding usual marketings; displacement of cash sales

In carrying out the provisions of this section, the Secretary shall take reasonable precautions to safeguard usual marketings of the United States and to avoid displacing any sales of United States agricultural commodities which the Secretary finds and determines would otherwise be made for cash dollars.

(c) Restrictive commitments from purchasers

The Secretary shall obtain commitments from purchasers that will prevent resale or transshipment to other countries, or use for other than domestic purposes, of agricultural commodities purchased under this section.

(d) Provisions of subchapters II and IV applicable to sales

In carrying out this chapter and sections 1427 and 1431 of this title, the provisions of sections 1702, 1703(a), 1703(d), 1703(e), 1703(f), 1703(j), 1703(k), 1710, 1731, 1732, 1733, 1734, 1735, 1736a, 1736b, and 1736c of this title shall be applicable to sales under this section.

(July 10, 1954, ch. 469, title I, § 107, 68 Stat. 457; Oct. 8, 1964, Pub. L. 88-638, § 1(11), 78 Stat. 1036; Sept. 6, 1965, Pub. L. 89-171, pt. III, § 401, 79 Stat. 662; Nov. 11, 1966, Pub. L. 89-808, § 2(B), 80 Stat. 1532.)

AMENDMENTS

1966—Pub. L. 89-808 substituted the private trade and enterprise provisions (subsec. (b) incorporating part of former section 1734 of this title requiring the Secretary to take such reasonable precautions as he determined necessary to avoid replacing any sales which the Secretary found and determined would otherwise be made for cash dollars, subsec. (d) incorporating former section 1736 of this title respecting applicability of other laws) for former provisions defining "friendly nation" and prohibiting sales to aggressor and other unfriendly countries and to the United Arab Republic, now provided for by section 1703(d) of this title.

1965—Pub. L. 89-171 prohibited any sale to be made to the United Arab Republic unless the President determines that the sale is essential to the national interest of the United States, limited the base of any such sale to the requirements of the United Arab Republic for one fiscal year, and required the President to keep the Foreign Relations Committee and the Appropriations Committee of the Senate and the Speaker of the House of Representatives fully and currently informed with respect to such sales to the United Arab Republic.

1964—Pub. L. 88-638 added clauses (3) and (4), and the closing paragraph directing the President that no sales be made to countries acting as military aggressors against any country having diplomatic relations with the United States, or which use funds from the United States for purposes inimical to the foreign policies of the United States.

EFFECTIVE DATE OF 1966 AMENDMENT

Amendment by Pub. L. 89-808 effective Jan. 1, 1967, see section 5 of Pub. L. 89-808, set out as a note under section 1691 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 22 section 2103.

§ 1707a. Export Credit Sales Program; financing of commercial sales of private stocks; authorization of appropriations for reimbursement of costs to Commodity Credit Corporation

Commercial sales of agricultural commodities out of private stocks on credit terms of not to exceed three years may be financed by Commodity Credit Corporation under its Export Credit Sales program. There are hereby authorized to be appropriated such sums as may be necessary to reimburse the Commodity Credit Corporation annually for its actual costs in-

curred or to be incurred under its Export Credit Sales Program.

(Pub. L. 89–808, § 4, Nov. 11, 1966, 80 Stat. 1538.)

CODIFICATION

Section was enacted as a part of the "Food for Peace Act of 1966" and not as a part of the "Agricultural Trade Development and Assistance Act of 1954" which is classified to this chapter. See Short Title note under section 1691 of this title for distribution of such Act.

EFFECTIVE DATE

Section effective Jan. 1, 1967, see section 5 of Pub. L. 89–808, set out as a note under section 1691 of this title.

§ 1708. Ocean transportation costs

The Commodity Credit Corporation may finance ocean freight charges incurred pursuant to agreements for sales for foreign currencies (other than those providing for conversion to dollars as described in section 1703(b) of this title) entered into hereunder only to the extent that such charges are higher (than would otherwise be the case) by reason of a requirement that the commodities be transported in United States-flag vessels. Such agreements shall require the balance of such charges for transportation in United States vessels to be paid in dollars by the nations or organizations with whom such agreements are entered into.

(July 10, 1954, ch. 469, title I, § 108, 68 Stat. 457; Oct. 8, 1964, Pub. L. 88–638, § 1(12), 78 Stat. 1037; Nov. 11, 1966, Pub. L. 89–808, § 2(B), 80 Stat. 1533.)

AMENDMENTS

1966—Pub. L. 89–808 substituted provisions relating to ocean transportation costs, formerly covered in last two sentences of former section 1702(a) of this title (changing "shall finance" and "agreements entered into after December 31, 1964" to "may finance" and "agreements for sales for foreign currencies (other than those providing for conversion to dollars as described in section 1703(b) of this title) entered into hereunder"), for provision relating to reports to Congress by President, now provided for by section 1736b of this title.

1964—Pub. L. 88–638 substituted "year" for "six months".

EFFECTIVE DATE OF 1966 AMENDMENT

Amendment by Pub. L. 89–808 effective Jan. 1, 1967, see section 5 of Pub. L. 89–808, set out as a note under section 1691 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 22 section 2103.

§ 1709. Self-help measures

(a) Criteria of self-help

Before entering into agreements with developing countries for the sale of United States agricultural commodities on whatever terms, the President shall consider the extent to which the recipient country is undertaking wherever practicable self-help measures to increase per capita production and improve the means for storage and distribution of agricultural commodities, including:

(1) devoting land resources to the production of needed food rather than to the production of non-food crops—especially nonfood crops in world surplus;

(2) development of the agricultural chemical, farm machinery and equipment, transportation and other necessary industries through private enterprise;

(3) training and instructing farmers in agricultural methods and techniques;

(4) constructing adequate storage facilities;

(5) improving marketing and distribution systems;

(6) creating a favorable environment for private enterprise and investment, both domestic and foreign, and utilizing available technical knowhow;

(7) establishing and maintaining Government policies to insure adequate incentives to producers;

(8) establishing and expanding institutions for adaptive agricultural research;

(9) allocating for these purposes sufficient national budgetary and foreign exchange resources (including those supplied by bilateral, multilateral and consortium aid programs) and local currency resources (resulting from loans or grants to recipient governments of the proceeds of local currency sales);

(10) carrying out voluntary programs to control population growth.

In taking these self-help measures into consideration the President shall take into particular account the extent to which they are being carried out in ways designed to contribute directly to development progress in poor rural areas and to enable the poor to participate actively in increasing agricultural production through small farm agriculture.

(b) Minimum allocation of foreign currencies

Notwithstanding any other provisions of this chapter and sections 1427 and 1431 of this title, in agreements with nations not engaged in armed conflict against Communist forces or against nations with which the United States has no diplomatic relations, not less than 20 per centum of the foreign currencies set aside for purposes other than those in sections 1704(a), (b), (e), and (j) of this title shall be allocated for the self-help measures set forth in this section.

(c) Description of self-help program in agreements; termination of agreements for inadequate development of self-help program

Each agreement entered into under this subchapter shall describe the program which the recipient country is undertaking to improve its production, storage, and distribution of agricultural commodities; and shall provide for termination of such agreement whenever the President finds that such program is not being adequately developed.

(July 10, 1954, ch. 469, title I, § 109, 68 Stat. 457; Aug. 13, 1957, Pub. L. 85–128, § 1(1), 71 Stat. 345; Sept. 6, 1958, Pub. L. 85–931, § 4, 72 Stat. 1791; Sept. 21, 1959, Pub. L. 86–341, title I, § 1, 73 Stat. 606; Aug. 8, 1961, Pub. L. 87–128, title II, § 201(5), 75 Stat. 307; Oct. 8, 1964, Pub. L. 88–638; § 1(15), 78 Stat. 1037; Nov. 11, 1966, Pub. L. 89–808, § 2(B), 80 Stat. 1533; July 29, 1968, Pub. L. 90–436, § 2(b), 82 Stat. 450; Dec. 20, 1975, Pub. L. 94–161, title II, § 206, 89 Stat. 853.)

AMENDMENTS

1975—Subsec. (a). Pub. L. 94-161 required the President to take into particular account the extent to which self-help measures are being carried out in ways designed to contribute directly to development progress in poor rural areas and to enable the poor to participate actively in increasing agricultural production through small farm agriculture.

1968—Subsec. (a). Pub. L. 90-436 added cl. (10).

1966—Pub. L. 89-808 substituted self-help measures for provision prescribing Dec. 31, 1966, as termination date for transactions under subchapter I of this chapter, now provided for by section 1736c of this title.

1964—Pub. L. 88-638 extended terminal date from December 31, 1964 to December 31, 1966.

1961—Pub. L. 87-128 extended terminal date from December 31, 1961 to December 31, 1964.

1959—Pub. L. 86-341 extended terminal date from December 31, 1959, to December 31, 1961.

1958—Pub. L. 85-931 extended terminal date from June 30, 1958, to Dec. 31, 1959.

1957—Pub. L. 85-128 extended terminal date from June 30, 1957 to June 30, 1958.

EFFECTIVE DATE OF 1966 AMENDMENT

Amendment by Pub. L. 89-808 effective Jan. 1, 1967, see section 5 of Pub. L. 89-808, set out as a note under section 1691 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1706, 1726, 1736b of this title; title 22 section 2103.

§ 1710. Limitation on transactions

Agreements shall not be entered into under this subchapter during any calendar year which will call for an appropriation to reimburse the Commodity Credit Corporation in an amount in excess of $1,900,000,000, plus any amount by which agreements entered into under this subchapter in prior years have called or will call for appropriations to reimburse the Commodity Credit Corporation in amounts less than authorized for such prior years.

(July 10, 1954, ch. 469, title I, § 110, as added Nov. 11, 1966, Pub. L. 89-808, § 2(B), 80 Stat. 1534.)

EFFECTIVE DATE

Section effective Jan. 1, 1967, see section 5 of Pub. L. 89-808, set out as a note under section 1691 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1707 of this title.

§ 1711. Assistance to most seriously affected countries; per capita gross national product determination from World Bank data; report to Congress

Not more than 25 per centum of the food aid commodities provided under this subchapter in each fiscal year shall be allocated and agreed to be delivered to countries other than those with an annual per capita gross national product of $300 or less and affected by inability to secure sufficient food for their immediate requirements through their own production or commercial purchase from abroad, unless the President certifies to the Congress that the use of such food assistance is required for humanitarian food purposes and neither House of Congress disapproves such use, by resolution, within thirty calendar days after such certification. In determining per capita gross national product for the purposes of this section, the President is authorized and directed to make use of data developed by the World Bank for its most recent annual report and relied upon by the Secretary of the Treasury. A reduction below 75 per centum in the proportion of food aid allocated and agreed to be delivered to countries with a per capita gross national product of $300 or less and affected by inability to secure sufficient food for their immediate requirements through their own production or commercial purchase from abroad which results from significantly changed circumstances occurring after the initial allocation shall not constitute a violation of the requirements of this section. Any reallocation of food aid shall be in accordance with this section so far as practicable. The President shall report promptly any such reduction, and the reasons therefor, to the Congress.

(July 10, 1954, ch. 469, title I, § 111, as added Dec. 20, 1975, Pub. L. 94-161, title II, § 207, 89 Stat. 853.)

SUBCHAPTER III—FAMINE RELIEF AND OTHER ASSISTANCE AND DONATIONS OF FOOD BOTH ON A GOVERNMENT-TO-GOVERNMENT BASIS AND THROUGH VOLUNTARY ORGANIZATIONS

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 1732, 1736c, 1736e, 1743 of this title; title 10 section 2681.

§ 1721. Statement of purpose; availability of commodities; minimum quantity for distribution

(a) The President is authorized to determine requirements and furnish agricultural commodities, on behalf of the people of the United States of America, to meet famine or other urgent or extraordinary relief requirements; to combat malnutrition, especially in children; to promote economic and community development in friendly developing areas; and for needy persons and nonprofit school lunch and preschool feeding programs outside the United States. The Commodity Credit Corporation shall make available to the President such as [1] agricultural commodities determined to be available under section 1731 of this title as he may request.

(b) The minimum quantity of agricultural commodities distributed under this subchapter shall be 1,300,000 tons of which the minimum distributed through nonprofit voluntary agencies and the World Food Program shall be one million tons in each fiscal year, unless the President determines and reports to the Congress, together with his reasons, that such quantity cannot be used effectively to carry out the purposes of this subchapter: *Provided*, That such minimum quantity shall not exceed the total quantity of commodities determined to be available for disposition under this chapter pursuant to section 1731 of this title, less the quantity of commodities required to meet famine or other urgent or extraordinary relief requirements.

(July 10, 1954, ch. 469, title II, § 201, 68 Stat. 457; May 28, 1956, ch. 327, title II, § 208(b), 70 Stat. 201; Aug. 3, 1956, ch. 933, § 4, 70 Stat. 988; Nov. 11, 1966, Pub. L. 89-808, § 2(C), 80 Stat.

[1] So in original.

1534; Dec. 20, 1975, Pub. L. 94-161, title II, § 208, 89 Stat. 853.)

AMENDMENTS

1975—Subsec. (a). Pub. L. 94-161, § 208(1), designated existing provisions as subsec. (a).

Subsec. (b). Pub. L. 94-161, § 208(2), added subsec. (b).

1966—Pub. L. 89-808 expanded scope of assistance to include emergency relief without regard to recipient being a friendly people, combating malnutrition in children, promotion of economic and community development in friendly developing areas, and for nonprofit school lunch and preschool feeding programs outside the United States and to be furnished from available commodities rather than surplus agricultural commodities.

1956—Act Aug. 3, 1956, inserted "or extraordinary" after "urgent" wherever it occurs.

Act May 28, 1956, omitted "f.o.b. vessels in United States ports,", which preceded "as he may request".

EFFECTIVE DATE OF 1966 AMENDMENT

Amendment by Pub. L. 89-808 effective Jan. 1, 1967, see section 5 of Pub. L. 89-808, set out as a note under section 1691 of this title.

DELEGATION OF FUNCTIONS

Functions of the President under this subchapter delegated to the Secretary of State, see section 2 of Ex. Ord. No. 10900, Jan. 5, 1961, 26 F.R. 143, set out as a note under section 1691 of this title.

AUTHORIZATION FOR COMMODITY CREDIT CORPORATION TO PURCHASE AND DONATE FLOUR AND CORNMEAL

Pub. L. 85-683, Aug. 19, 1958, 72 Stat. 635 as authorizing Commodity Credit Corporation to purchase and donate flour and cornmeal when it has wheat or corn available for donation pursuant to this subchapter, see note set out under section 1431 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1722 of this title.

§ 1722. Furnishing commodities through friendly governments, agencies, and organizations; manner, terms and conditions; use of nonprofit voluntary agencies to extent practicable; identification of origin of commodities; assistance for community and other self-help activities; displacement of dollar sales

The President may furnish commodities for the purposes set forth in section 1721 of this title through such friendly governments and such agencies, private or public, including intergovernmental organizations such as the world food program and other multilateral organizations in such manner and upon such terms and conditions as he deems appropriate. The President shall, to the extent practicable, utilize nonprofit voluntary agencies registered with, and approved by, the Advisory Committee on Voluntary Foreign Aid. Insofar as practicable, all commodities furnished hereunder shall be clearly identified by appropriate marking on each package or container in the language of the locality where they are distributed as being furnished by the people of the United States of America. The assistance to needy persons shall insofar as practicable be directed toward community and other self-help activities designed to alleviate the causes of the need for such assistance. Except in the case of emergency, the President shall take reasonable precaution to assure that commodities furnished hereunder will not displace or interfere with sales which might otherwise be made.

(July 10, 1954, ch. 469, title II, § 202, 68 Stat. 458; May 14, 1960, Pub. L. 86-472, ch. VI, § 601(a)(1), 74 Stat. 140; Dec. 16, 1963, Pub. L. 88-205, pt. IV, § 403(d), 77 Stat. 390; Nov. 11, 1966, Pub. L. 89-808, § 2(C), 80 Stat. 1534.)

AMENDMENTS

1966—Pub. L. 89-808 substituted provisions for furnishing commodities for prescribed purposes through use of friendly governments, agencies, and organizations, using to extent practicable registered and approved nonprofit voluntary agencies, identification of source of commodities, determination by the President of the manner and terms and conditions of furnishing the commodities and for directions of the assistance toward community and self-help activities for former provisions for transfer of commodities on a grant bases to assist the prescribed programs.

1963—Pub. L. 88-205 substituted "economic and community development" for "economic developments".

1960—Pub. L. 86-472 substituted "In order to facilitate the utilization of surplus agricultural commodities in meeting the requirements of needy peoples, and in order to promote economic development in underdeveloped areas in addition to that which can be accomplished under sections 1701 to 1704 and 1705 to 1709 of this title, the" for "The".

EFFECTIVE DATE OF 1966 AMENDMENT

Amendment by Pub. L. 89-808 effective Jan. 1, 1967, see section 5 of Pub. L. 89-808, set out as a note under section 1691 of this title.

CONTINUATION OF AUTHORITY

Section 601(a)(2) of Pub. L. 86-472, which provided that the amendment of this section by section 601(a)(1) shall expire June 30, 1961, was repealed by Pub. L. 87-92, July 20, 1961, 75 Stat. 211.

TERMINATION OF ADVISORY COMMITTEES

Advisory Committees in existence on Jan. 5, 1973, to terminate not later than the expiration of the two-year period following Jan. 5, 1973, unless, in the case of a committee established by the President or an officer of the Federal Government, such committee is renewed by appropriate action prior to the expiration of such two-year period, or in the case of a committee established by the Congress, its duration is otherwise provided by law, see section 14 of Pub. L. 92-463, Oct. 6, 1972, 86 Stat. 770, set out in the Appendix to Title 5, Government Organization and Employees.

§ 1723. Payment of costs and charges

The Commodity Credit Corporation may, in addition to the cost of acquisition, pay with respect to commodities made available under this subchapter costs for packaging, enrichment, preservation, and fortification; processing transportation, handling, and other incidental costs up to the time of their delivery free on board vessels in United States ports; ocean freight charges from United States ports to designated ports of entry abroad, or, in the case of landlocked countries, transportation from United States ports to designated points of entry abroad; and charges for general average contributions arising out of the ocean transport of commodities transferred pursuant thereto.

(July 10, 1954, ch. 469, title II, § 203, 68 Stat. 458; May 28, 1956, ch. 327, title II, § 208(c), 70 Stat. 201; Aug. 13, 1957, Pub. L. 85-128, § 1(3), 71 Stat. 345; Sept. 21, 1959, Pub. L. 86-341, title I, § 3, 73 Stat. 606; May 14, 1960, Pub. L. 86-472,

ch. VI, § 601(b), 74 Stat. 140; Aug. 8, 1961, Pub. L. 87-128, title II, § 202(1), 75 Stat. 307; Oct. 8, 1964, Pub. L. 88-638, § 1(13), (14), 78 Stat. 1037; Nov. 11, 1966, Pub. L. 89-808, § 2(C), 80 Stat. 1535.)

AMENDMENTS

1966—Pub. L. 89-808 reenacted, with linguistic changes, existing provisions for payment of costs and charges, included costs of acquisition, packaging, enrichment, preservation, fortification, processing, handling, other incidents, deleted provisions for authorization of appropriations for reimbursement of CCC, limitation on amount, and use of funds for purchase of foreign currencies, now covered by section 1724 of this title, and deleted other provisions for use of agencies, organizations, and facilities in making transfers, now covered by section 1722 of this title, and provision for transfer of funds from the CCC to such other Federal agency designated by the President for payment of ocean freight costs or for purchase of foreign currencies under this subchapter.

1964—Pub. L. 88-638 substituted "1965"; for "1961", "1966" for "1964", and "$400,000,000" for "$300,000,000", inserted "or donated under said section 1431, or section 1431b or 1697 of this title", provisions authorizing use of funds available under subchapter III, not exceeding $7,500,000 annually, to purchase foreign currencies accruing under subchapter II in order to meet costs designed to assure that commodities available under subchapters I or III are used to carry out more effectively the purposes for which such commodities are made available or to promote activities to alleviate the causes of the need for such assistance, provided that such funds are used to supplement, not substitute for, funds normally available for such purposes from other non-United States Government sources, and "or for the purchase of foreign currencies" following "ocean freight costs".

1961—Pub. L. 87-128 substituted authorization provision for period beginning January 1, 1961, and ending December 31, 1964, for authorization provision beginning January 1, 1960, and ending December 31, 1961, and made the annual limitation applicable to the amount programed rather than to the amount spent.

1960—Pub. L. 86-472 authorized the payment for transportation from United States ports to designated points of entry abroad in the case of landlocked countries, and permitted the payment of charges for general average contributions arising out of the ocean transport of transferred commodities.

1959—Pub. L. 86-341 substituted "Not more than $300,000,000 (including the Corporation's investment in such commodities) plus any amount by which transfers made in the preceding calendar year have called or will call for appropriations to reimburse the Commodity Credit Corporation in amounts less than could have been expended during such preceding year under this subchapter as in effect during such preceding year shall be expended in any calendar year during the period January 1, 1960, and ending December 31, 1961, and for all such transfers and for other costs authorized by this subchapter" for "Not more than $800,000,000 (including the Corporation's investment in such commodities) shall be expended for all such transfers and for other costs authorized by this subchapter".

1957—Pub. L. 85-128 increased the limitation on expenditures from $500,000,000 to $800,000,000.

1956—Act May 28, 1956 increased the limitation on expenditures from $300,000,000 to $500,000,000, and authorized payment of ocean freight charges.

EFFECTIVE DATE OF 1966 AMENDMENT

Amendment by Pub. L. 89-808 effective Jan. 1, 1967, see section 5 of Pub. L. 89-808, set out as a note under section 1691 of this title.

EFFECTIVE DATE OF 1964 AMENDMENT

Section 1(13) of Pub. L. 88-638 provided in part that the substitutions of "1965" for "1961", "1966" for "1964" and "$400,000,000" for "$300,000,000" shall not become effective until Jan. 1, 1965.

EFFECTIVE DATE OF 1959 AMENDMENT

Section 3 of Pub. L. 86-341 provided in part that the amendment of the first sentence of this section by Pub. L. 86-341 shall be effective Jan. 1, 1960.

§ 1724. Authorization of appropriations for reimbursement of Commodity Credit Corporation; limitation; funds for purchase of foreign currencies

Programs of assistance shall not be undertaken under this subchapter during any calendar year which call for an appropriation of more than $600,000,000 to reimburse the Commodity Credit Corporation for all costs incurred in connection with such programs (including the Corporation's investment in commodities made available) plus any amount by which programs of assistance undertaken under this subchapter in the preceding calendar year have called or will call for appropriations to reimburse the Commodity Credit Corporation in amounts less than were authorized for such purpose during such preceding year. In addition to other funds available for such purposes under any other Act, funds made available under this subchapter may be used in an amount not exceeding $7,500,000 annually to purchase foreign currencies accruing under subchapter II of this chapter in order to meet costs (except the personnel and administrative costs of cooperating sponsors, distributing agencies, and recipient agencies, and the costs of construction or maintenance or any church owned or operated edifice or any other edifices to be used for sectarian purposes) designed to assure that commodities made available under this subchapter are used to carry out effectively the purposes for which such commodities are made available or to promote community and other self-help activities designed to alleviate the causes of the need for such assistance: *Provided, however,* That such funds shall be used only to supplement and not substitute for funds normally available for such purposes from other non-United States Government sources.

(July 10, 1954, ch. 469, title II, § 204, 68 Stat. 458; Aug. 13, 1957, Pub. L. 85-128, § 1(1), 71 Stat. 345; Sept. 6, 1958, Pub. L. 85-931, § 5, 72 Stat. 1791; Sept. 21, 1959, Pub. L. 86-341, title I, § 1, 73 Stat. 606; Aug. 8, 1961, Pub. L. 87-128, title II, § 202(2), 75 Stat. 307; Oct. 8, 1964, Pub. L. 88-638, § 1(15), 78 Stat. 1037; Nov. 11, 1966, Pub. L. 89-808, § 2(C), 80 Stat. 1535.)

AMENDMENTS

1966—Pub. L. 89-808 substituted part of provisions of former section 1723 of this title relating to authorization of appropriations for reimbursement of the CCC, limitations on amount, and use of funds for purchase of foreign currencies for former provisions for termination date for assistance under this subchapter (Dec. 31, 1966), now provided for by section 1736c of this title.

1964—Pub. L. 88-638 extended terminal date from December 31, 1964 to December 31, 1966.

1961—Pub. L. 87-128 extended terminal date from December 31, 1961, to December 31, 1964.

1959—Pub. L. 86-341 extended terminal date from December 31, 1959, to December 31, 1961.

1958—Pub. L. 85-931 extended terminal date from June 30, 1958, to Dec. 31, 1959.

1957—Pub. L. 85-128 extended terminal date from June 30, 1957 to June 30, 1958.

EFFECTIVE DATE OF 1966 AMENDMENT

Amendment by Pub. L. 89-808 effective Jan. 1, 1967, see section 5 of Pub. L. 89-808, set out as a note under section 1691 of this title.

§ 1725. Encouragement of contributions from advanced nations for combating world hunger and malnutrition; expansion of United Nations World food program

It is the sense of the Congress that the President should encourage other advanced nations to make increased contributions for the purpose of combating world hunger and malnutrition, particularly through the expansion of international food and agricultural assistance programs. It is further the sense of the Congress that as a means of achieving this objective, the United States should work for the expansion of the United Nations World food program beyond its present established goals.

(July 10, 1954, ch. 469, title II, § 205, as added Nov. 11, 1966, Pub. L. 89-808, § 2(C), 80 Stat. 1535.)

EFFECTIVE DATE

Section effective Jan. 1, 1967, see section 5 of Pub. L. 89-808, set out as a note under section 1691 of this title.

§ 1726. Limitation on use of foreign currencies; reports to Congress

Except to meet famine or other urgent or extraordinary relief requirements, no assistance under this subchapter shall be provided under an agreement permitting generation of foreign currency proceeds unless (1) the country receiving the assistance is undertaking self-help measures in accordance with section 1709 of this title, (2) the specific uses to which the foreign currencies are to be put are set forth in a written agreement between the United States and the recipient country, and (3) such agreement provides that the currencies will be used for purposes specified in section 2151a of title 22. The President shall include information on currencies used in accordance with this section in the reports required under section 1736b of this title and section 2417 of title 22.

(July 10, 1954, ch. 469, title II, § 206, as added Dec. 20, 1975, Pub. L. 94-161, title II, § 209, 89 Stat. 854.)

SUBCHAPTER IV—GENERAL PROVISIONS

§1731. Agricultural commodities available for disposition; determination by Secretary of Agriculture; criteria

After consulting with other agencies of the Government affected and within policies laid down by the President for implementing this chapter and sections 1427 and 1431 of this title, and after taking into account productive capacity, domestic requirements, farm and consumer price levels, commercial exports, and adequate carryover, the Secretary of Agriculture shall determine the agricultural commodities and quantities thereof available for disposition under this chapter and sections 1427 and 1431 of this title, and the commodities and quantities thereof which may be included in the negotiations with each country. No commodity shall be available for disposition under this chapter and sections 1427 and 1431 of this title if such disposition would reduce the domestic supply of such commodity below that needed to meet domestic requirements, adequate carryover, and anticipated exports for dollars as determined by the Secretary of Agriculture at the time of exportation of such commodity.

(July 10, 1954, ch. 469, title IV, § 401, as added Sept. 21, 1959, Pub. L. 86-341, title I, § 14, 73 Stat. 610, and amended Sept. 27, 1962, Pub. L. 87-703, title II, § 201(1), 76 Stat. 610; Nov. 11, 1966, Pub. L. 89-808, § 2(E), 80 Stat. 1535.)

AMENDMENTS

1966—Pub. L. 89-808 substituted provisions relating to determination and criteria for such determination by the Secretary of Agriculture of agricultural commodities available for disposition for former statement of purpose of provisions relating to long-term supply contracts, now covered by subchapter II of this chapter.

1962—Pub. L. 87-703 included in the statement of purpose the stimulation and increase of sales of surplus agricultural commodities for dollars through long-term supply contracts and through the extension of credit for the purchase of such commodities, by agreements with friendly nations or with private trade.

EFFECTIVE DATE OF 1966 AMENDMENT

Amendment by Pub. L. 89-808 effective Jan. 1, 1967, see section 5 of Pub. L. 89-808, set out as a note under section 1691 of this title.

DELEGATION OF FUNCTIONS

Functions of the President under this subchapter delegated to the Secretary of Agriculture, see section 1(a) of Ex. Ord. No. 10900, Jan. 5, 1961, 26 F.R. 143, set out as a note under section 1691 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1707, 1721 of this title.

§ 1732. Agricultural commodity defined; fishery products available

The term "agricultural commodity" as used in this chapter and sections 1427 and 1431 of this title shall include any agricultural commodity produced in the United States or product thereof produced in the United States: *Provided, however,* That the term "agricultural commodity" shall not include alcoholic beverages, and for the purposes of subchapter III of this chapter, tobacco or products thereof. The foregoing proviso shall not be construed as prohibiting representatives of the domestic wine industry from participating in market development activities carried out with foreign currencies made available under subchapter II of this chapter which have as their purpose the expansion of export sales of United States agricultural commodities. Subject to the availability of appropriations therefor, any domestically produced fishery product may be made available under this chapter and sections 1427 and 1431 of this title.

(July 10, 1954, ch. 469, title IV, § 402, as added Sept. 21, 1959, Pub. L. 86-341, title I, § 14, 73 Stat. 610, and amended Sept. 27, 1962, Pub. L. 87-703, title II, § 201(2), 76 Stat. 611; Nov. 11, 1966, Pub. L. 89-808, § 2(E), 80 Stat. 1536; July 1, 1971, Pub. L. 92-42, 85 Stat. 99.)

AMENDMENTS

1971—Pub. L. 92-42 inserted requirement that proviso excluding alcoholic beverages from term "agricultural commodity" be not construed as prohibiting domestic wine industry from participating in market development activities for expansion of export sales of domestic agricultural commodities.

1966—Pub. L. 89-808 substituted definition of agricultural commodity and provisions as to availability of fishery products for former provisions respecting agreements for delivery of surplus agricultural commodities, period, and security for payments in relation to long-term supply contracts, now covered by subchapter II of this chapter. See section 1707 of this title.

1962—Pub. L. 87-703 authorized executive agreements with financial institutions acting in behalf of friendly nations and administrative sales agreements with foreign and United States private trade with provision for security for payments.

EFFECTIVE DATE OF 1966 AMENDMENT

Amendment by Pub. L. 89-808 effective Jan. 1, 1967, see section 5 of Pub. L. 89-808, set out as a note under section 1691 of this title.

DELEGATION OF FUNCTIONS

Functions of the President of negotiating and entering into agreements with friendly nations or organizations of friendly nations delegated to the Secretary of State, see section 3(a) of Ex. Ord. No. 10900, Jan. 5, 1961, 26 F.R. 143, set out as a note under section 1691 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1707 of this title.

§ 1733. Authorization of appropriations; reimbursement of Commodity Credit Corporation; classification of expenditures

There are hereby authorized to be appropriated such sums as may be necessary to carry out this chapter and sections 1427 and 1431 of this title including such amounts as may be required to make payments to the Commodity Credit Corporation, to the extent the Commodity Credit Corporation is not reimbursed under sections 1704(j) and 1705 of this title, for its actual costs incurred or to be incurred. In presenting his budget, the President shall classify expenditures under this chapter and sections 1427 and 1431 of this title as expenditures for international affairs and finance rather than for agriculture and agricultural resources.

(July 10, 1954, ch. 469, title IV, § 403, as added Sept. 21, 1959, Pub. L. 86-341, title I, § 14, 73 Stat. 610, and amended Sept. 27, 1962, Pub. L. 87-703, title II, § 201(3), 76 Stat. 611; Oct. 8, 1964, Pub. L. 88-638, § 1(17), 78 Stat. 1037; Nov. 11, 1966, Pub. L. 89-808, § 2(E), 80 Stat. 1536.)

AMENDMENTS

1966—Pub. L. 89-808 substituted provisions for authorization of appropriations, including reimbursement of Commodity Credit Corporation, and classification of expenditures, formerly covered in former section 1703(a) of this title, for provision for payment for commodities, now provided for by section 1706(a) of this title.

1964—Pub. L. 88-638 substituted "less than the minimum rate required by section 2161 of Title 22 for loans made under that section" for "more than the cost of the funds to the United States Treasury as determined by the Secretary of the Treasury, taking into consideration the current average market yields on outstanding marketable obligations of the United States having maturity comparable to the maturities of loans made by the President under this section".

1962—Pub. L. 87-703 substituted "reasonable" for "approximately equal" annual amounts and provided for deferral of date for beginning annual payment.

EFFECTIVE DATE OF 1966 AMENDMENT

Amendment by Pub. L. 89-808 effective Jan. 1, 1967, see section 5 of Pub. L. 89-808, set out as a note under section 1691 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1707 of this title.

§ 1734. Aims of assistance programs; humanitarian objectives and national interest

The programs of assistance undertaken pursuant to this chapter and sections 1427 and 1431 of this title shall be directed toward the attainment of the humanitarian objectives and national interest of the United States.

(July 10, 1954, ch. 469, title IV, § 404, as added Sept. 21, 1959, Pub. L. 86-341, title I, § 14, 73 Stat. 610, and amended Nov. 11, 1966, Pub. L. 89-808, § 2(E), 80 Stat. 1536.)

AMENDMENTS

1966—Pub. L. 89-808 substituted provision declaratory of aims of assistance programs as the attainment of humanitarian objectives and the national interest for provisions requiring the Secretary of Agriculture to maximize the sale of commodities and avoid displacement of cash sales, now provided for by sections 1703(n) and 1707(b) of this title.

EFFECTIVE DATE OF 1966 AMENDMENT

Amendment by Pub. L. 89-808 effective Jan. 1, 1967, see section 5 of Pub. L. 89-808, set out as a note under section 1691 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1707 of this title.

§ 1735. Self-help in meeting food requirements and in resolving problems relative to population growth

The authority and funds provided by this chapter and sections 1427 and 1431 of this title shall be utilized in a manner that will assist friendly countries that are determined to help themselves toward a greater degree of self-reliance in providing enough food to meet the needs of their people and in resolving their problems relative to population growth.

(July 10, 1954, ch. 469, title IV, § 405, as added Sept. 21, 1959, Pub. L. 86-341, title I, § 14, 73 Stat. 610, and amended Sept. 27, 1962, Pub. L. 87-703, title II, § 201(4), 76 Stat. 611; Nov. 11, 1966, Pub. L. 89-808, § 2(E), 80 Stat. 1536.)

AMENDMENTS

1966—Pub. L. 89-808 substituted provisions respecting self-help in meeting food requirements and in resolving problems relative to population growth for provisions respecting entry into agreements for par-

ticipation in supply and assistance program on a proportionate and equitable basis.

1962—Pub. L. 87-703 substituted "In the case of such agreements, the Secretary may enter into agreements with other friendly and historic supplying nations" for "In entering into such agreements, the Secretary shall endeavor to reach agreement with other exporting nations".

EFFECTIVE DATE OF 1966 AMENDMENT

Amendment by Pub. L. 89-808 effective Jan. 1, 1967, see section 5 of Pub. L. 89-808, set out as a note under section 1691 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1707 of this title.

§ 1736. Food production assistance

(a) Authority of President

In order to further assist friendly developing countries to become self-sufficient in food production, the President is authorized, notwithstanding any other provision of law—

(1) To establish and administer a program of farmer-to-farmer assistance between the United States and such countries to help farmers in such countries in the practical aspects of increasing food production and distribution and improving the effectiveness of their farming operations;

(2) To enter into contracts or other cooperative agreements with, or make grants to, land-grant colleges and universities and other institutions of higher learning in the United States to recruit persons who by reason of training, education, or practical experience are knowledgeable in the practical arts and sciences of agriculture and home economics, and to train such persons in the practical techniques of transmitting to farmers in such countries improved practices in agriculture, and to participate in carrying out the program in such countries including, where desirable, additional courses for training or retraining in such countries;

(3) To consult and cooperate with private nonprofit farm organizations in the exchange of farm youth and farm leaders with developing countries and in the training of farmers of such developing countries within the United States or abroad;

(4) To conduct research in tropical and subtropical agriculture for the improvement and development of tropical and subtropical food products for dissemination and cultivation in friendly countries;

(5) To coordinate the program authorized in this section with other foreign assistance activities of the United States;

(6) To establish by such rules and regulations as he deems necessary the conditions for eligibility and retention in and dismissal from the program established in this section, together with the terms, length and nature of service, compensation, employee status, oaths of office, and security clearances, and such persons shall be entitled to the benefits and subject to the responsibilities applicable to persons serving in the Peace Corps pursuant to the provisions of section 612, volume 75 of the Statutes at Large, as amended; and

(7) To the maximum extent practicable, to pay the costs of such program through the use of foreign currencies accruing from the sale of agricultural commodities under this chapter and sections 1427 and 1431 of this title, as provided in section 1704(i) of this title.

(b) Authorization of appropriations

There are hereby authorized to be appropriated not to exceed $33,000,000 during any fiscal year for the purpose of carrying out the provisions of this section.

(July 10, 1954, ch. 469, title IV, § 406, as added Sept. 21, 1959, Pub. L. 86-341, title I, § 14, 73 Stat. 610, and amended Sept. 27, 1962, Pub. L. 87-703, title II, § 201(5), 76 Stat. 611; Nov. 11, 1966, Pub. L. 89-808, § 2(E), 80 Stat. 1536; Dec. 20, 1975, Pub. L. 94-161, title II, § 214, 89 Stat. 855.)

REFERENCES IN TEXT

Section 612, volume 75 of the Statutes at Large, as amended, referred to in par. (6), probably means the Peace Corps Act (Pub. L. 87-293, Sept. 22, 1961, 75 Stat. 612, as amended) which is classified to chapter 34 (§ 2501 et seq.) of Title 22, Foreign Relations and Intercourse. For complete classification of this Act to the Code, see Short Title note set out under section 2501 of Title 22 and Tables volume.

AMENDMENTS

1975—Subsec. (a). Pub. L. 94-161, § 214(1), substituted "the President" for "the Secretary of Agriculture".

Subsec. (a)(1). Pub. L. 94-161, § 214(2), struck out "through existing agencies of the Department of Agriculture" following "establish and administer".

Subsec. (a)(5). Pub. L. 94-161, § 214(3), substituted "with other foreign assistance activities of the United States" for "with the activities of the Peace Corps, the Agency for International Development, and other agencies of the United States and to assign, upon agreement with such agencies, such persons to work with and under the administration of such agencies: Provided, That nothing in this section shall be construed to infringe upon the powers or functions of the Secretary of State".

1966—Pub. L. 89-808 substituted food production assistance provisions for provision respecting applicability of other laws, now provided for by section 1707(d) of this title.

1962—Pub. L. 87-703 made section 1701(b) and (c) applicable to this subchapter.

EFFECTIVE DATE OF 1966 AMENDMENT

Amendment by Pub. L. 89-808 effective Jan. 1, 1967, see section 5 of Pub. L. 89-808, set out as a note under section 1691 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1704, 1706 of this title.

§ 1736a. Advisory committee; establishment; composition; general policies' survey; advisement of President; meetings; order of precedence

There is hereby established an Advisory Committee composed of the Secretary of State, the Secretary of the Treasury, the Secretary of Agriculture, the Director of the Office of Management and Budget, the Administrator of the Agency for International Development, the chairman and the ranking minority member of both the House Committee on Agriculture and the House Committee on International Relations, and the chairman and the ranking minority member of both the Senate Committee on

Agriculture, Nutrition, and Forestry and the Senate Committee on Foreign Relations, or their designees (who shall be members of such committees or, in the case of members from the executive branch, who shall have been confirmed by the Senate). The Advisory Committee shall survey the general policies relating to the administration of this chapter and sections 1427 and 1431 of this title, including the manner of implementing the self-help provisions, the uses to be made of foreign currencies which accrue in connection with sales for foreign currencies under subchapter II of this chapter, the amount of currencies to be reserved in sales agreements for loans to private industry under section 1704(e) of this title, rates of exchange, interest rates, and the terms under which dollar credit sales are made, and shall advise the President with respect thereto. The Advisory Committee shall meet not less than four times during each calendar year at the call of the Acting Chairman of such Committee who shall preside in the following order: The chairman of the House Committee on Agriculture, the chairman of the Senate Committee on Foreign Relations, the chairman of the Senate Committee on Agriculture, Nutrition, and Forestry, and the chairman of the House Committee on International Relations.

(July 10, 1954, ch. 469, title IV, § 407, as added Nov. 11, 1966, Pub. L. 89-808, § 2(E), 80 Stat. 1537, and amended July 29, 1968, Pub. L. 90-436, § 8, 82 Stat. 451; 1970 Reorg. Plan No. 2, § 102, eff. July 1, 1970, 35 F.R. 7959, 84 Stat. 2085; H. Res. 163, Mar. 19, 1975; Dec. 20, 1975, Pub. L. 94-161, title II, § 210, 89 Stat. 854; S. Res. 4, Feb. 4, 1977.)

AMENDMENTS

1975—Pub. L. 94-161 inserted as the end text of the first sentence relating to composition of the Advisory Committee ", or their designees (who shall be members of such committees or, in the case of members from the executive branch, who shall have been confirmed by the Senate)".

1968—Pub. L. 90-436 eliminated provisions that the vice chairman and one ranking minority member of the specified House committees and the next ranking majority member and one ranking minority member of the specified Senate committees be members of the Advisory Committee, and added provisions requiring the Advisory Committee to meet not less than four times during each calendar year and setting forth the order of precedence at such meetings.

CHANGE OF NAME

The Committee on Agriculture and Forestry of the Senate was abolished and replaced by the Committee on Agriculture, Nutrition, and Forestry of the Senate, effective Feb. 11, 1977. See Rule XXV of the Standing Rules of the Senate, as amended by Senate Resolution 4 (popularly cited as the "Committee System Reorganization Amendments of 1977"), approved Feb. 4, 1977.

The name of the Committee on Foreign Affairs of the House of Representatives was changed to Committee on International Relations on Mar. 19, 1975, by House Resolution 163, 94th Congress.

EFFECTIVE DATE

Section effective Jan. 1, 1967, see section 5 of Pub. L. 89-808, set out as a note under section 1691 of this title.

TRANSFER OF FUNCTIONS

All functions vested by laws (including reorganization plan) in the Bureau of the Budget or the Director of the Bureau of the Budget were transferred to the President of the United States by section 101 of 1970 Reorg. Plan No. 2, Section 102 of 1970 Reorg. Plan No. 2, redesignated the Bureau of the Budget as the Office of Management and Budget and the Offices of Director of the Bureau of the Budget, Deputy Director of the Bureau of the Budget, and Assistant Directors of the Bureau of the Budget as Director of the Office of Management and Budget, Deputy Director of the Office of Management and Budget, and Assistant Directors of the Office of Management and Budget, respectively. Section 103 of the 1970 Reorg. Plan No. 2, transferred the records, property, personnel, and funds of the Bureau of the Budget to the Office of Management and Budget. See Part I of Reorganization Plan 2 of 1970, set out in the Appendix to Title 5, Government Organization and Employees.

TERMINATION OF ADVISORY COMMITTEES

Advisory Committees in existence on Jan. 5, 1973, to terminate not later than the expiration of the two-year period following Jan. 5, 1973, unless, in the case of a committee established by the President or an officer of the Federal Government, such committee is renewed by appropriate action prior to the expiration of such two-year period, or in the case of a committee established by the Congress, its duration is otherwise provided by law, see section 14 of Pub. L. 92-463, Oct. 6, 1972, 86 Stat. 770, set out in the Appendix to Title 5, Government Organization and Employees.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1704, 1707 of this title.

§ 1736b. Report to Congress

(a) The President shall make a report to Congress not later than April 1 each year with respect to the activities carried out under this chapter and sections 1427 and 1431 of this title during the preceding fiscal year. Such report shall describe the progress of each country with which agreements are in effect under subchapter II of this chapter in carrying out its agreements under such subchapter.

(b) In his presentation to the Congress of planned programing of food assistance for each fiscal year, the President shall include a global assessment of food production and needs, self-help steps which are being taken by food-short countries under section 1709(a) of this title, steps which are being taken to encourage other countries to increase their participation in food assistance or the financing of food assistance, and the relationship between food assistance provided to each country under this chapter and other foreign assistance provided to such country by the United States and other donors.

(c) Not later than November 1 of each calendar year the President shall submit to the House Committee on Agriculture, the House Committee on International Relations, the Senate Committee on Agriculture, Nutrition, and Forestry, and the Senate Committee on Foreign Relations a revised global assessment of food production and needs, and revised planned programming of food assistance for the current fiscal year, to reflect, to the maximum extent feasible, the actual availability of commodities for food assistance.

(July 10, 1954, ch. 469, title IV, § 408, as added Nov. 11, 1966, Pub. L. 89-808, § 2(E), 80 Stat.

1537, and amended Dec. 20, 1975, Pub. L. 94-161, title II, § 211, 89 Stat. 854; S. Res. 4, Feb. 4, 1977.)

AMENDMENTS

1975—Subsec. (a). Pub. L. 94-161, § 211(1), (2), designated existing provisions as subsec. (a) and substituted in first sentence "fiscal" for "calendar" year.

Subsecs. (b), (c). Pub. L. 94-161, § 211(3), added subsecs. (b) and (c).

CHANGE OF NAME

The Committee on Agriculture and Forestry of the Senate was abolished and replaced by the Committee on Agriculture, Nutrition, and Forestry of the Senate, effective Feb. 11, 1977. See Rule XXV of the Standing Rules of the Senate, as amended by Senate Resolution 4 (popularly cited as the "Committee System Reorganization Amendments of 1977"), approved Feb. 4, 1977.

EFFECTIVE DATE

Section effective Jan. 1, 1967, see section 5 of Pub. L. 89-808, set out as a note under section 1691 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1706, 1707, 1726 of this title.

§ 1736c. Termination date for agreements to finance sales under subchapter II and programs of assistance under subchapter III

No agreements to finance sales under subchapter II of this chapter and no programs of assistance under subchapter III of this chapter shall be entered into after December 31, 1977.

(July 10, 1954, ch. 469, title IV, § 409, as added Nov. 11, 1966, Pub. L. 89-808, § 2(E), 80 Stat. 1537, and amended July 29, 1968, Pub. L. 90-436, § 1, 82 Stat. 450; Nov. 30, 1970, Pub. L. 91-524, title VII, § 701, 84 Stat. 1379; Aug. 10, 1973, Pub. L. 93-86, § 1(26), 87 Stat. 237.)

AMENDMENTS

1973—Pub. L. 93-86 extended termination date for agreements from December 31, 1973 to December 31, 1977.

1970—Pub. L. 91-524 extended termination date for agreements from December 31, 1970, to December 31, 1973.

1968—Pub. L. 90-436 extended termination date for agreements from December 31, 1968 to December 31, 1970.

EFFECTIVE DATE

Section effective Jan. 1, 1967, see section 5 of Pub. L. 89-808, set out as a note under section 1691 of this title.

PRIOR PROVISIONS

Provisions covering the termination date for agreements to finance sales under subchapter II and programs of assistance under subchapter III were covered by sections 1709, 1724 of this title prior to the amendment of these sections by Pub. L. 89-808.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1707 of this title.

§ 1736d. Application of foreign assistance provisions referring to nationalization, expropriation, and related governmental Acts affecting property owned by United States citizens

The provisions of section 2370(e) of title 22 (referring to nationalization, expropriation, and related governmental Acts affecting property owned by United States citizens), shall be applicable to assistance provided under subchapter II of this chapter.

(July 10, 1954, ch. 469, title IV, § 410, as added Nov. 11, 1966, Pub. L. 89-808, § 2(E), 80 Stat. 1538.)

EFFECTIVE DATE

Section effective Jan. 1, 1967, see section 5 of Pub. L. 89-808, set out as a note under section 1691 of this title.

§ 1736e. Sale or donation of agricultural commodities to North Vietnam prohibited without specific Congressional authorization

No agricultural commodities shall be sold under subchapter I or III of this chapter or donated under subchapter II of this chapter to North Vietnam, unless by an Act of Congress enacted subsequent to July 1, 1973, assistance to North Vietnam is specifically authorized.

(July 10, 1954, ch. 469, title IV, § 411, as added Nov. 30, 1970, Pub. L. 91-524, title VII, § 704, as added Aug. 10, 1973, Pub. L. 93-86, § 1(26), 87 Stat. 237.)

§ 1736f. International food reserve system

The President is authorized and encouraged to seek international agreement, subject to congressional approval, for a system of food reserves to meet food shortage emergencies and to provide insurance against unexpected shortfalls in food production, with costs of such a system to be equitably shared among nations and with farmers and consumers to be given firm safeguards against market price disruption from such a system.

(July 10, 1954, ch. 469, title IV, § 412, as added Dec. 20, 1975, Pub. L. 94-161, title II, § 212, 89 Stat. 855.)

CHAPTER 42—AGRICULTURAL COMMODITY SET-ASIDE

Sec.

1741. Maximum and minimum quantities for set-aside; definition.
1742. Determination of commodity value for set-aside.
1743. Reduction of set-aside.
1744. Sale of commodities in set-aside; exemption from pricing limitations.
1745. Computation of carry-over.
1746. Records and accounts.
1747. Authorization of appropriations; determination of value of transferred commodity.

§ 1741. Maximum and minimum quantities for set-aside; definition

The Commodity Credit Corporation shall, as rapidly as the Secretary of Agriculture shall determine to be practicable, set aside within its inventories not more than the following maximum quantities and not less than the following minimum quantities of agricultural commodities or products thereof heretofore or hereafter acquired by it from 1954 and prior years'

crops and production in connection with its price support operations:

Commodity	*Maximum quantity*	*Minimum quantity*
Wheat (bushels)	500,000,000	400,000,000
Upland cotton (bales)	4,000,000	3,000,000
Cottonseed oil (pounds)	500,000,000	0
Butter (pounds)	200,000,000	0
Nonfat dry milk solids (pounds)	300,000,000	0
Cheese (pounds)	150,000,000	0

Such quantities shall be known as the "commodity set-aside".

(Aug. 28, 1954, ch. 1041, title I, § 101, 68 Stat. 897.)

SHORT TITLE

Sections 397, 1446b and 1446c of this title, this chapter, chapters 43 and 44 of this title, section 590h-3 of Title 16, Conservation, and amendments to sections 602, 608c, 608e-1, 1301, 1326-1330, 1332, 1334-1335, 1340, 1344, 1371, 1374, 1421, 1428, 1441, 1446, 1446d of this title and to sections 590h and 590o of Title 16, Conservation, are popularly known as the "Agricultural Act of 1954".

CROSS REFERENCES

Rice set-aside, see section 1380i of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1380i, 1745 of this title.

§ 1742. Determination of commodity value for set-aside

Quantities of commodities shall not be included in the commodity set-aside which have an aggregate value in excess of $2,500,000,000. The value of the commodities placed in the commodity set-aside, for the purpose of this section, shall be the Corporation's investment in such commodities as of the date they are included in the commodity set-aside, as determined by the Secretary.

(Aug. 28, 1954, ch. 1041, title I, § 102, 68 Stat. 897.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1746 of this title.

§ 1743. Reduction of set-aside

(a) Such commodity set-aside shall be reduced by disposals made in accordance with the directions of the President as follows:

(1) Donation, sale, or other disposition for disaster or other relief purposes outside the United States pursuant to and subject to the limitations of subchapter III of chapter 41 of this title;

(2) Sale or barter (including barter for strategic materials) to develop new or expanded markets for American agricultural commodities, including but not limited to disposition pursuant to and subject to the limitations of subchapter II of chapter 41 of this title;

(3) Donation to school-lunch programs;

(4) Transfer to the national stockpile established pursuant to the Act of June 7, 1939, as amended [50 U.S.C. 98 et seq.], without reimbursement from funds appropriated for the purposes of that Act;

(5) Donation, sale, or other disposition for research, experimental, or educational purposes;

(6) Donation, sale, or other disposition for disaster relief purposes in the United States or to meet any national emergency declared by the President; and

(7) Sale for unrestricted use to meet a need for increased supplies at not less than 105 per centum of the parity price in the case of agricultural commodities and a price reflecting 105 per centum of the parity price of the agricultural commodity in the case of products of agricultural commodities.

The President shall prescribe such terms and conditions for the disposal of commodities in the commodity set-aside as he determines will provide adequate safeguards against interference with normal marketings of the supplies of such commodities outside the commodity set-aside. Strategic materials acquired by the Commodity Credit Corporation under paragraph (2) of this subsection shall be transferred to the national stockpile established pursuant to the Act of June 7, 1939, as amended [50 U.S.C. 98 et seq.], and the Commodity Credit Corporation shall be reimbursed for the value of the commodities bartered for such strategic materials from funds appropriated pursuant to section 8 of such Act of June 7, 1939, as amended [50 U.S.C. 98g]. For the purpose of such reimbursement, the value of any commodity so bartered shall be the lower of the domestic market price or the Commodity Credit Corporation's investment therein as of the date of such barter, as determined by the Secretary of Agriculture.

(b) The quantity of any commodity in the commodity set-aside shall be reduced to the extent that the Commodity Credit Corporation inventory of such commodity is reduced, by natural or other cause beyond the control of the Corporation, below the quantity then charged to the commodity set-aside.

(Aug. 28, 1954, ch. 1041, title I, § 103, 68 Stat. 897.)

REFERENCES IN TEXT

The Act of June 7, 1939, as amended, referred to in subsec. (a), is act June 7, 1939, ch. 190, 53 Stat. 811, as amended, popularly known as the Strategic and Critical Materials Stock Piling Act, and is classified generally to subchapter III (§ 98 et seq.) of chapter 5 of Title 50, War and National Defense. For complete classification of this Act to the Code, see Short Title note set out under section 98 of Title 50 and Tables volume.

EX. ORD. NO. 10601. ADMINISTRATION OF COMMODITY SET-ASIDE

Ex. Ord. No. 10601, Mar. 21, 1955, 20 F.R. 1761, as amended by Ex. Ord. No. 10773, July 1, 1958, 23 F.R. 5061; Ex. Ord. No. 10782, Sept. 6, 1958, 23 F.R. 6971; Ex. Ord. No. 11051, Sept. 27, 1962, 27 F.R. 9683, provided:

SECTION 1. (a) Subject to the provisions of this Executive order, the functions conferred upon the President by Title I of the Act of August 28, 1954, Public Law 690, 68 Stat. 897 (the Agricultural Act of 1954) [this chapter], hereinafter referred to as Title I, are hereby delegated to the Secretary of Agriculture.

(b) The authority delegated by this order is exclusive of the authority to declare any national emergency.

SEC. 2. Functions under Title I [this chapter], respecting the disposal outside the United States of commodities in the commodity set-aside shall be subject to the responsibilities of the Secretary of State with respect to the foreign policy of the United States as such policy relates to the said functions.

SEC. 3. Strategic materials shall be acquired under section 103(a)(2) of Title I [subsection (a)(2) of this section] only in accordance with programs certified by the Director of the Office of Emergency Planning.

SEC. 4. Existing procedures of coordination among Federal agencies pertaining to the disposal of agricultural surpluses under other laws shall be applicable, so far as is permitted by law and otherwise appropriate, in the carrying out of Title I [this chapter.].

SEC. 5. The provisions of Part II of Executive Order No. 10575 of November 6, 1954 (19 F.R. 7252) [set out as a note under section 1781 of Title 22] are hereby extended and made applicable to the carrying on abroad of functions under Title I [this chapter].

SEC. 6. This order shall not be deemed to amend or supersede any provisions of Executive Order No. 10560 of September 9, 1954 (19 F.R. 5927) [set out as a note under section 1691 of this title].

DWIGHT D. EISENHOWER

CHANGE OF NAME

Ex. Ord. No. 11051, Sept. 27, 1962, 27 F.R. 9683, set out as a note under section 2271 of Title 50, Appendix, War and National Defense, provided that each reference to the Office of Civil and Defense Mobilization or to the Director of the Office of Civil and Defense Mobilization in Ex. Ord. No. 10601, Mar. 21, 1955, 20 F.R. 1761, is amended to refer to the Office of Emergency Planning and the Director of the Office of Emergency Planning, respectively.

The name of the Office of Emergency Planning was changed to the Office of Emergency Preparedness by Pub. L. 90-608, c. IV, § 402, Oct. 21, 1968, 82 Stat. 1194, with references in any other law to the Office of Emergency Planning to be deemed, after Oct. 21, 1968, references to the Office of Emergency Preparedness.

TRANSFER OF FUNCTIONS

The Office of Emergency Preparedness, referred to in Ex. Ord. No. 10601, was abolished and the functions of the Office and its officers were transferred to the President by Reorg. Plan No. 1 of 1973, set out in the Appendix to Title 5, Government Organization and Employees.

Functions of the Director of the Office of Emergency Preparedness under Ex. Ord. No. 10601, Mar. 21, 1955, 20 F.R. 1761, as amended, transferred to the Administrator of General Services, see section 3 of Ex. Ord. No. 11725, June 27, 1973, 38 F.R. 17175, set out as a note under section 2271 of Title 50, Appendix, War and National Defense.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1744, 1747 of this title.

§ 1744. Sale of commodities in set-aside; exemption from pricing limitations

(a) The Corporation shall have authority to sell, without regard to section 1743(a)(7) of this title, any commodity covered by the commodity set-aside for the purpose of rotating stocks or consolidating inventories, any such sale to be offset by purchase of the same commodity in a substantially equivalent quantity or of a substantially equivalent value.

(b) Dispositions pursuant to this chapter shall not be subject to the pricing limitations of section 1427 of this title.

(Aug. 28, 1954, ch. 1041, title I, § 104, 68 Stat. 898.)

§ 1745. Computation of carry-over

The quantity of any commodity in the commodity set-aside or transferred from the set-aside to the national stockpile established pursuant to the act of June 7, 1939, as amended [50 U.S.C. 98 et seq.] shall be excluded from the computation of "carryover" for the purpose of determining the price support level for such commodity under the Agricultural Act of 1949, as amended [7 U.S.C. 1421 et seq.], and related legislation, but shall be included in the computation of total supplies for purposes of acreage allotments and marketing quotas under the Agricultural Adjustment Act of 1938, as amended [7 U.S.C. 1281 et seq.], and related legislation. Until such time as the commodity set-aside has been completed, such quantity of the commodity as the Secretary shall determine between the maximum and minimum quantities specified in section 1741 of this title shall be excluded from the computations of "carryover" for the purpose of determining the price support level, but shall be included in the computation of total supplies for purposes of acreage allotments and marketing quotas, for the 1955 crop of the commodity, notwithstanding that the quantity so excluded may not have been acquired by the Corporation and included in the commodity set-aside.

(Aug. 28, 1954, ch. 1041, title I, § 105, 68 Stat. 898.)

REFERENCES IN TEXT

The Act of June 7, 1939, as amended, referred to in text, is act June 7, 1939, ch. 190, 53 Stat. 811, as amended, popularly known as the Strategic and Critical Materials Stock Piling Act, and is classified generally to subchapter III (§ 98 et seq.) of chapter 5 of Title 50, War and National Defense. For complete classification of this Act to the Code, see Short Title note set out under section 98 of Title 50 and Tables volume.

The Agricultural Act of 1949, referred to in text, is act Oct. 31, 1949, ch. 792, 63 Stat. 1051, and is classified generally to chapter 35A (§ 1421 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note under section 1421 of this title and Tables volume.

The Agricultural Adjustment Act of 1938, referred to in text, is act Feb. 16, 1938, ch. 30, 52 Stat. 31, and is classified generally to chapter 35 (§ 1281 et seq.) of this title and Tables volume. For complete classification of this Act to the Code, see Tables volume.

§ 1746. Records and accounts

The Commodity Credit Corporation shall keep such records and accounts as may be necessary to show, for each commodity set-aside, the initial and current composition, value (in accordance with section 1742 of this title), current investment, quantity disposed of, method of disposition, and amounts received on disposition.

(Aug. 28, 1954, ch. 1041, title I, § 106, 68 Stat. 898.)

§ 1747. Authorization of appropriations; determination of value of transferred commodity

In order to make payment to the Commodity Credit Corporation for any commodities transferred to the national stockpile pursuant to section 1743(a)(4) of this title, there are authorized to be appropriated amounts equal to the

value of any commodities so transferred. The value of any commodity so transferred, for the purpose of this section, shall be the lower of the domestic market price or the Commodity Credit Corporation's investment therein as of the date of transfer to the stockpile, as determined by the Secretary of Agriculture

(Aug. 28, 1954, ch. 1041, title I, § 107, 68 Stat. 898.)

CHAPTER 43—AGRICULTURAL ATTACHÉS

Sec.
1761. Foreign markets; collection of information.
1762. Personnel.
(a) Appointment.
(b) Titles.
(c) Attachment to diplomatic missions.
(d) Presidential regulations.
(e) Assignment to United States.
(f) Language training for families of officers and employees assigned abroad; authorization of appropriations; report to Congress.
1763. Allowances and benefits.
1764. Reports and dispatches.
1765. Foreign service appropriations; applicability.
1766. Rules and regulations; advance payment for rent and other service; funds for courtesies to foreign representatives.
1767. Authorization of appropriations.
(a) Unexpended balances.
(b) Annual appropriations.
(c) Funds for 1955; expenditures.
1768. Foreign Operations Administration unaffected.

§ 1761. Foreign markets; collection of information

For the purpose of encouraging and promoting the marketing of agricultural products of the United States and assisting American farmers, processors, distributors, and exporters to adjust their operations and practices to meet world conditions, the Secretary of Agriculture shall acquire information regarding the competition and demand for United States agricultural products, the marketing and distribution of said products in foreign countries and shall be responsible for the interpretation and dissemination of such information in the United States and shall make investigations abroad regarding the factors affecting and influencing the export of United States agricultural products, and shall conduct abroad any other activities including the demonstration of standards of quality for American agricultural products for which the Department of Agriculture now has or in the future may have such standards, as he deems necessary. Nothing contained herein shall be construed as prohibiting the Department of Agriculture from conducting abroad any activity for which authority now exists.

(Aug. 28, 1954, ch. 1041, title VI, § 601, 68 Stat. 908.)

§ 1762. Personnel

(a) Appointment

To effectuate the carrying out of the purposes of this chapter, the Secretary of Agriculture is authorized to appoint such personnel as he determines to be necessary and, with the concurrence of the Secretary of State, to assign such personnel to service abroad.

(b) Titles

Officers or employees assigned or appointed to a post abroad pursuant to this chapter shall have the designation of Agricultural Attache or other titles or designations, which shall be jointly agreed to by the Secretary of State and the Secretary of Agriculture.

(c) Attachment to diplomatic missions

Upon the request of the Secretary of Agriculture, the Secretary of State shall regularly and officially attach the officers or employees of the United States Department of Agriculture to the diplomatic mission of the United States in the country in which such officers or employees are to be assigned by the Secretary of Agriculture, and shall obtain for them diplomatic privileges and immunities equivalent to those enjoyed by Foreign Service personnel of comparable rank and salary.

(d) Presidential regulations

The President shall prescribe regulations to insure that the official activities of persons assigned abroad under this chapter are carried on (1) consonant with United States foreign policy objectives as defined by the Secretary of State; (2) in accordance with instructions of the Secretary of Agriculture with respect to agricultural matters; and (3) in coordination with other representatives of the United States Government in each country, under the leadership of the Chief of the United States Diplomatic Mission.

(e) Assignment to United States

Any officer or employee appointed and assigned to a post abroad pursuant to this chapter may, in the discretion of the Secretary of Agriculture, be assigned for duty in the continental United States, without regard to the civil service laws (and without reduction in grade if an appropriate position at the employee's grade is not available in any agency of the Department of Agriculture), for a period of not more than three years: *Provided,* That the total number of such employees assigned for duty in the continental United States under this provision shall not exceed fifteen at any one time: *Provided further,* That this Act shall not increase the number of persons employed at grade GS-16, GS-17, or GS-18.

(f) Language training for families of officers and employees assigned abroad; authorization of appropriations; report to Congress

Effective October 1, 1976, the Secretary of Agriculture is authorized to provide appropriate orientation and language training to families of officers and employees of the Department of Agriculture in anticipation of an assignment abroad of such officrs and employees or while abroad pursuant to this chapter or other authority: *Provided,* That the facilities of the Foreign Service Institute or other Government facilities shall be used wherever practicable, and the Secretary may utilize foreign currencies generated under title I of the Agricultural Trade Development and Assistance Act of 1954, as amended [7 U.S.C. 1701 et seq.], to carry out the purposes of this subsection in the foreign nations to which such officers, employees, and families are assigned. There are hereby authorized to be appropriated such sums, not to exceed $50,000 annually, as may be necessary to

carry out the purposes of this subsection: *Provided*, That for the fiscal year ending September 30, 1977, any appropriations available to the Secretary of Agriculture (not to exceed $50,000) may be used to carry out the purposes of this subsection. The Secretary of Agriculture shall submit to the House Committee on Agriculture and the Senate Committee on Agriculture, Nutrition, and Forestry not later than ninety days after the end of each fiscal year a detailed report showing activities carried out under the authority of this subsection during such fiscal year.

(Aug. 28, 1954, ch. 1041, title VI, § 602, 68 Stat. 908; June 28, 1955, ch. 189, § 12(c)(13), 69 Stat. 182; Aug. 4, 1965, Pub. L. 89-106, § 4, 79 Stat. 431; Oct. 1, 1976, Pub. L. 94-449, 90 Stat. 1500; S. Res. 4, Feb. 4, 1977.)

REFERENCES IN TEXT

The Agricultural Trade Development and Assistance Act of 1954, as amended, referred to in subsec. (f), is act July 10, 1954, ch. 469, 68 Stat. 454, as amended, which is classified generally to chapter 41 (§ 1691 et seq.) of this title. Title I of the Act is classified to subchapter II (§ 1701 et seq.) of chapter 41 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1691 of this title and Tables volume.

The civil-service laws, referred to in subsec. (e), are set forth in Title 5, Government Organization and Employees. See, particularly, section 3301 et seq. of that title.

This Act, referred to in subsec. (e), is the Agricultural Act of 1954, act Aug. 28, 1954, ch. 1041, 68 Stat. 897. For classification of this Act to the Code, see Short Title note set out under section 1741 of this title and Tables volume.

AMENDMENTS

1976—Subsec. (f). Pub. L. 94-449 added subsec. (f).

1965—Subsec. (e). Pub. L. 89-106 added subsec. (e).

1955—Subsec. (a). Act June 28, 1955, repealed provisions authorizing the Secretary of Agriculture to place not more than eight positions in grade 16 and two in grade 17 of the General Schedule of the Classification Act of 1949.

CHANGE OF NAME

The Committee on Agriculture and Forestry of the Senate was abolished and replaced by the Committee on Agriculture, Nutrition, and Forestry of the Senate, effective Feb. 11, 1977. See Rule XXV of the Standing Rules of the Senate, as amended by Senate Resolution 4 (popularly cited as the "Committee System Reorganization Amendments of 1977"), approved Feb. 4, 1977.

EFFECTIVE DATE OF 1955 AMENDMENT

Amendment of this section by act June 28, 1955, effective on June 28, 1955, see section 13 of act of June 28, 1955.

EX. ORD. NO. 10624. REGULATIONS FOR DEPARTMENT OF AGRICULTURE PERSONNEL ABROAD

Ex. Ord. No. 10624, July 28, 1955, 20 F.R. 5445, as amended by Ex. Ord. No. 10903, Jan. 9, 1961, 26 F.R. 217; Ex. Ord. No. 11530, May 26, 1970, 35 F.R. 8335, provided:

SECTION 1. (a) The provisions of Part II—Procedures for Coordination Abroad—of Executive Order No. 10575 of November 6, 1954 shall be applicable to the official activities of persons assigned abroad under authority of Title VI of the said act of August 28, 1954 [this chapter].

(b) The Secretary of Agriculture shall institute and maintain such measures consistent with the said Part II as may be necessary to insure that the official activities of persons assigned abroad under the said Title VI are carried on consonant with United States foreign-policy objectives as defined by the Secretary of State and are effectively coordinated with the activities of representatives of other United States agencies, under the leadership of the Chief of the United States Diplomatic Mission.

(c) Consistent with subsections (a) and (b) of this section, the Secretary of Agriculture shall issue instructions on agricultural matters to persons assigned abroad under authority of the said Title VI.

SEC. 2. In addition to rules and regulations pertaining to allowances and benefits otherwise applicable to personnel assigned abroad by the Secretary of Agriculture under Title VI of the Act of August 28, 1954 [this chapter], or other authority, there shall be applicable to such personnel the rules and regulations prescribed by the Secretary of State in pursuance of (1) so much of the authority vested in the President by Title II of the Overseas Differentials and Allowances Act [see sections 5921 to 5925 of Title 5, Government Organization and Employees], or by any amendment thereof, as relates to quarters allowances or cost-of-living allowances, and (2) so much of the authority vested in the President and the Secretary of State by Title IX of the Foreign Service Act of 1946 [section 1131 et seq. of Title 22, Foreign Relations and Intercourse], or by any amendment thereof, as relates to allowances and benefits under the said Title IX: *Provided*, (1) that the Secretary of State, upon request of the Secretary of Agriculture, may prescribe, within existing authority of law and when deemed necessary, special rules and regulations for such personnel; and (2) that the Secretary of Agriculture may, within the limitation of such rules and regulations, prescribe necessary implementing directions. The Secretary of Agriculture may designate employees of the Department of Agriculture to make specific determinations and take specific actions in the application of such rules and regulations to the activities of the Department of Agriculture.

SEC. 3. Such provisions in annual appropriation acts of the Department of State, including such acts hereafter enacted, facilitating the work of the Foreign Service of the United States as the Director of the Bureau of the Budget [now Director of the Office of Management and Budget] shall from time to time determine appropriate shall be applicable to activities authorized under Title VI of the said act of August 28, 1954 [this chapter].

This order shall be effective as of September 1, 1954.

§ 1763. Allowances and benefits

The Secretary of Agriculture may, under such rules and regulations as may be prescribed by the President or his designee, provide to personnel appointed or assigned by the Secretary of Agriculture under this chapter or other authority allowance and benefits similar to those provided by title IX of the Foreign Service Act of 1946 [22 U.S.C. 1131 et seq.]. Leaves of absence for personnel under this chapter shall be on the same basis as is provided for the Foreign Service of the United States by subchapter I of chapter 63 of title 5.

(Aug. 28, 1954, ch. 1041, title VI, § 603, 68 Stat. 909.)

REFERENCES IN TEXT

Title IX of the Foreign Service Act of 1946, referred to in text, is title IX of act Aug. 13, 1946, ch. 957, 60 Stat. 1025, as amended, and is classified generally to subchapter IX (§ 1131 et seq.) of chapter 14 of Title 22, Foreign Relations and Intercourse. For complete classification of this act to the Code, see Short Title note set out under section 801 of Title 22 and Tables volume.

CODIFICATION

"Subchapter I of chapter 63 of title 5" was substituted for "the Annual and Sick Leave Act of 1951" on authority of section 7(b) of Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 631, the first section of which enacted Title 5, Government Organization and Employees.

§ 1764. Reports and dispatches

(a) The reports and dispatches prepared by the officers appointed or assigned under this chapter shall be made available to the Department of State, and may be made available to other interested agencies of the Government, and the agricultural reports and dispatches and related information produced by officers of the Foreign Service shall be available to the Secretary of Agriculture.

(b) The Secretary of State is authorized upon request of the Secretary of Agriculture to provide office space, equipment, facilities, and such other administrative and clerical services as may be required for the personnel affected by this chapter. The Secretary of Agriculture is authorized to reimburse or advance funds to the Secretary of State for such services.

(Aug. 28, 1954, ch. 1041, title VI, § 604, 68 Stat. 909.)

§ 1765. Foreign service appropriations; applicability

Provisions in annual appropriation Acts of the Department of State facilitating the work of the Foreign Service of the United States shall be applicable under rules and regulations prescribed by the President or his designee to activities pursuant to this chapter.

(Aug. 28, 1954, ch. 1041, title VI, § 605, 68 Stat. 909.)

§ 1766. Rules and regulations; advance payment for rent and other service; funds for courtesies to foreign representatives

The Secretary of Agriculture may make rules and regulations necessary to carry out the purposes of this chapter and may cooperate with any Department or agency of the United States Government, State, Territory, or possession or any organization or person. In any foreign country where custom or practice requires payment in advance for rent or other service, such payment may be authorized by the Secretary of Agriculture. Funds available for the purposes of this chapter may be used for extending courtesies to representatives of foreign countries, when so provided in appropriation or other law.

(Aug. 28, 1954, ch. 1041, title VI, § 606, 68 Stat. 909; Aug. 3, 1956, ch. 950, § 8, 70 Stat. 1034.)

AMENDMENTS

1956—Act Aug. 3, 1956, added sentence relating to availability of funds for extending courtesies to representatives of foreign countries.

§ 1767. Authorization of appropriations

(a) Unexpended balances

For the fiscal year 1955 so much of the Department of State and Department of Agriculture unexpended balances of appropriations, allocations, and other funds employed, held, used, available, or to be made available, in connection with the functions covered by this chapter as the Director of the Office of Management and Budget or the Congress by appropriation or other law shall determine shall be transferred to or established in accounts under the control of the Department of Agriculture, and there are hereby authorized to be established such additional accounts as may be necessary for this purpose.

(b) Annual appropriations

There are hereby authorized to be appropriated to the Department of Agriculture such amounts as may be necessary for the purpose of this chapter.

(c) Funds for 1955; expenditures

For the fiscal year 1955 funds which become available for the purposes of this chapter may be expended under the provisions of law, including current appropriation Acts, applicable to the Department of State: *Provided*, That the provisions of section 961(d) of title 22 with respect to the source of payment for Foreign Service officers and employees, shall not apply to personnel employed under this chapter. Obligations incurred by the Department of State prior to September 1, 1954, with respect to functions affected by this Act, shall be paid from appropriations available to the Department of State.

(Aug. 28, 1954, ch. 1041, title VI, § 607, 68 Stat. 909; 1970 Reorg. Plan No. 2, § 102, eff. July 1, 1970, 35 F.R. 7959, 84 Stat. 2085.)

REFERENCES IN TEXT

This Act, referred to in subsec. (c), is the Agricultural Act of 1954, act Aug. 28, 1954, ch. 1041, 68 Stat. 897. For classification of this Act to the Code, see Short Title note set out under section 1741 of this title and Tables volume.

TRANSFER OF FUNCTIONS

All funds vested by law (including reorganization plan) in the Bureau of the Budget or the Director of the Bureau of the Budget were transferred to the President of the United States by section 101 of 1970 Reorg. Plan No. 2. Section 102 of 1970 Reorg. Plan No. 2, redesignated the Bureau of the Budget as the Office of Management and Budget and the offices of Director of the Bureau of the Budget, Deputy Director of the Bureau of the Budget, and Assistant Directors of the Bureau of the Budget as Director of the Office of Management and Budget, Deputy Director of the Office of Management and Budget, and Assistant Directors of the Office of Management and Budget, respectively. Section 103 of 1970 Reorg. Plan No. 2, transferred the records, property, personnel, and funds of the Bureau of the Budget to the Office of Management and Budget. See Part I of Reorganization Plan 2 of 1970, set out in the Appendix to Title 5, Government Organization and Employees.

§ 1768. Foreign Operations Administration unaffected

Nothing in this chapter shall be construed to affect personnel employed by or funds available to the Foreign Operations Administration or programs conducted under its authorities.

(Aug. 28, 1954, ch. 1041, title VI, § 608, 68 Stat. 910.)

TRANSFER OF FUNCTIONS

The Foreign Operations Administration was abolished by Ex. Ord. No. 10610 of May 9, 1955, and its functions and offices were transferred to the Department of State and to the Department of Defense, effective June 30, 1955.

CHAPTER 44—WOOL PROGRAM

Sec.
1781. Declaration of policy.
1782. Price supports; time limitation.
1783. Payments utilized as price supports.
1784. Reimbursement to Commodity Credit Corporation.
1785. Determination of price support operations by Secretary.
1786. Definitions.
1787. Agreements; marketing cooperatives, trade associations, etc., approval; referendum.

§ 1781. Declaration of policy

It is recognized that wool is an essential and strategic commodity which is not produced in quantities and grades in the United States to meet the domestic needs and that the desired domestic production of wool is impaired by the depressing effects of wide fluctuations in the price of wool in the world markets. It is declared to be the policy of Congress, as a measure of national security and in promotion of the general economic welfare, to encourage the annual domestic production of approximately three hundred million pounds of shorn wool, grease basis, at prices fair to both producers and consumers in a manner which will have the least adverse effects upon foreign trade.

(Aug. 28, 1954, ch. 1041, title VII, § 702, 68 Stat. 910.)

SHORT TITLE

Section 701 of Act Aug. 28, 1954, provided that: "This title [enacting this chapter] may be cited as the 'National Wool Act of 1954'."

§ 1782. Price supports; time limitation

(a) The Secretary of Agriculture shall, through the Commodity Credit Corporation, support the prices of wool and mohair, respectively, to the producers thereof by means of loans, purchases, payments, or other operations. Such price support shall be limited to wool and mohair marketed during the period beginning April 1, 1955, and ending December 31, 1977.

(b) The support price for shorn wool for the 1966 and each subsequent marketing year shall be determined by multiplying 62 cents by the ratio of (i) the average of the parity index (the index of prices paid by farmers, including commodities, and services, interest, taxes, and farm wage rates, as defined in section 1301(a)(1)(C) of this title) for the three calendar years immediately preceding the calendar year in which such price support is determined and announced to (ii) the average parity index for the three calendar years 1958, 1959, and 1960, and rounding the resulting amount to the nearest full cent: *Provided,* That for the marketing years beginning January 1, 1971, and ending December 31, 1977, the support price for shorn wool shall be 72 cents per pound, grease basis.

(c) The support prices for pulled wool and for mohair shall be established at such levels, in relationship to the support price for shorn wool, as the Secretary determines will maintain normal marketing practices for pulled wool, and as the Secretary shall determine is necessary to maintain approximately the same percentage of parity for mohair as for shorn wool. The deviation of mohair support prices shall not be calculated so as to cause it to rise or fall more than 15 per centum above or below the comparable percentage of parity at which shorn wool is supported: *Provided,* That for the marketing years beginning January 1, 1971, and ending December 31, 1977, the support price for mohair shall be 80.2 cents per pound, grease basis.

(d) Notwithstanding the foregoing, no price support shall be made available, other than through payments, at a level in excess of 90 per centum of the parity price for the commodity.

(e) The Secretary shall, to the extent practicable, announce the support price levels for wool and mohair sufficiently in advance of each marketing year as will permit producers to plan their production for such marketing year.

(Aug. 28, 1954, ch. 1041, title VII, § 703, 68 Stat. 910; Aug. 28, 1958, Pub. L. 85-835, title IV, § 401, 72 Stat. 994; Aug. 8, 1961, Pub. L. 87-128, title I, § 151, 75 Stat. 306; Nov. 3, 1965, Pub. L. 89-321, title II, § 201, 79 Stat. 1188; Oct. 11, 1968, Pub. L. 90-559, § 1(3), 82 Stat. 996; Nov. 30, 1970, Pub. L. 91-524, title III, § 301, 84 Stat. 1362; Aug. 10, 1973, Pub. L. 93-86, § 1(7)(A), 87 Stat. 224.)

AMENDMENTS

1973—Subsec. (a). Pub. L. 93-86 substituted "December 31, 1977" for "December 31, 1973".

Subsec. (b). Pub. L. 93-86 substituted "marketing years" for "three marketing years" and "December 31, 1977" for "December 31, 1973".

Subsec. (c). Pub. L. 93-86 substituted "marketing years" for "three marketing years" and "December 31, 1977" for "December 31, 1973".

1970—Pub. L. 91-524 divided existing provisions into lettered subsecs. (a) to (e) and, in such subsecs. (a), (b), and (c), continued the wool and mohair program for three years through Dec. 31, 1973, and established an incentive price of 72 cents per pound for shorn wool and 80.2 cents per pound for mohair for each year of the extension.

1968—Pub. L. 90-559 extended termination date for one year, substituting "1970" for "1969".

1965—Pub. L. 89-321 substituted "December 31, 1969" for "March 31, 1966", added the further proviso setting out the formula for determining the support price for shorn wool, and deleted the sentence providing that if the determined support price does not exceed 90 per centum of the parity price for shorn wool, the support price should be set at a level between 60 and 90 per centum sufficient to encourage an annual production of 360,000,000 pounds.

1961—Pub. L. 87-128 extended the time limitation from March 31, 1962, to March 31, 1966.

1958—Pub. L. 85-835 extended time limitation from March 31, 1959 to March 31, 1962.

§ 1783. Payments utilized as price supports

If payments are utilized as a means of price support, the payments shall be such as the Secretary of Agriculture determines to be sufficient, when added to the national average price received by producers, to give producers a national average return for the commodity equal to the support price level therefor: *Provided,* That the total of all such payments made under this Act shall not at any time exceed an amount equal to 70 per centum of the accumulated totals, as of the same date, of the gross receipts from duties collected on and after January 1, 1953, on all articles subject to duty under schedule 11 of the Tariff Act of 1930, as amend-

ed. The payments shall be made upon wool and mohair marketed by the producers thereof, but any wool or mohair produced prior to January 1, 1955, shall not be the subject of payments. The payments shall be at such rates for the marketing year or periods thereof as the Secretary determines will give producers the support price level as herein provided. Payments to any producer need not be made if the Secretary determines that the amount of the payment to the producer or all producers is too small to justify the cost of making such payments. The Secretary may make the payment to producers through the marketing agency to or through whom the producer marketed his wool or mohair: *Provided,* That such marketing agency agrees to receive and promptly distribute the payments on behalf of such producers. In case any person who is entitled to any such payment dies, becomes incompetent, or disappears before receiving such payment, or is succeeded by another who renders or completes the required performance, the payment shall, without regard to any other provisions of law, be made as the Secretary may determine to be fair and reasonable in all the circumstances and provided by regulation.

(Aug. 28, 1954, ch. 1041, title VII, § 704, 68 Stat. 911; Aug. 28, 1958, Pub. L. 85-835, title IV, § 402, 72 Stat. 995.)

REFERENCES IN TEXT

This Act, referred to in text, is the Agricultural Act of 1954, act Aug. 28, 1954, ch. 1041, 68 Stat. 897. For classification of this Act to the Code, see Short Title note set out under section 1741 of this title and Tables volume.

Schedule 11 of the Tariff Act of 1930, referred to in text, is now covered by schedule 3 of the Revised Tariff Schedules, set out in section 1202 of Title 19, Customs Duties.

AMENDMENTS

1958—Pub. L. 85-835 deleted from the first proviso "specific" the first time it appears and "(whether or not such specific duties are parts of compound rates)".

§ 1784. Reimbursement to Commodity Credit Corporation

For the purpose of reimbursing the Commodity Credit Corporation for any expenditures made by it in connection with payments to producers under this chapter, there is appropriated for each fiscal year beginning with the fiscal year ending June 30, 1956, an amount equal to the total of expenditures made by the Corporation during the preceding fiscal year and to any amounts expended in prior fiscal years not previously reimbursed: *Provided, however,* That such amounts appropriated for any fiscal year shall not exceed 70 per centum of the gross receipts from duties collected during the period January 1 to December 31, both inclusive, preceding the beginning of each such fiscal year on all articles subject to duty under schedule 11 of the Tariff Act of 1930, as amended. For the purposes of the appraisal under sections 713a-4 and 713a-5 of title 15, the Commodity Credit Corporation shall establish on its books an account receivable in an amount equal to any amount expended by Commodity Credit Corporation in connection with payments pursuant to this chapter which has not been reimbursed from appropriations made hereunder.

(Aug. 28, 1954, ch. 1041, title VII, § 705, 68 Stat. 911; Aug. 28, 1958, Pub. L. 85-835, title IV, § 403, 72 Stat. 995.)

REFERENCES IN TEXT

Schedule 11 of the Tariff Act of 1930, referred to in text, is now covered by schedule 3 of the Revised Tariff Schedules, set out in section 1202 of Title 19, Customs Duties.

AMENDMENTS

1958—Pub. L. 85-835 deleted from the proviso "specific" the first time it appeared and "(whether or not such specific duties are parts of compound rates)".

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1787 of this title.

§ 1785. Determination of price support operations by Secretary

Except as otherwise provided in this chapter, the amounts, terms, and conditions of the price support operations and the extent to which such operations are carried out shall be determined or approved by the Secretary of Agriculture. The Secretary may, in determining support prices and rates of payment, make adjustments in such prices or rates for differences in grade, quality, type, location, and other factors to the extent he deems practicable and desirable. Determinations by the Secretary under this chapter shall be final and conclusive. The facts constituting the basis for any operation, payment, or amount thereof when officially determined in conformity with applicable regulations prescribed by the Secretary shall be final and conclusive and shall not be reviewable by any other officer or agency of the Government.

(Aug. 28, 1954, ch. 1041, title VII, § 706, 68 Stat. 912.)

RETROACTIVE AMENDMENT OF REGULATIONS RELATING TO PRICE SUPPORT PAYMENTS

Pub. L. 94-312, June 21, 1976, 90 Stat. 690, provided that:

"That the Secretary of Agriculture is authorized to amend retroactively regulations of the Department of Agriculture pertaining to the computation of price support payments under the National Wool Act of 1954 [this chapter] in order that the amount of such payments may, in the case of any rancher or farmer, be computed on the basis of (1) the net sales proceeds received, or (2) in the case of any rancher or farmer who failed to realize the amount provided for in the sales document, the lesser of the following: (A) the net sales proceeds based on the price the rancher or farmer would have received had there been no default of payment under such document, or (B) the fair market value of the commodity concerned at the time of sale.

"SEC. 2. The Secretary of Agriculture is further authorized to reconsider any application filed for the payment of price support under the National Wool Act of 1954 [this chapter] with respect to any commodity marketed during the four marketing years 1969 through 1972 and to make such payment adjustments as he determines fair and equitable on the basis of any amendment to regulations made under authority of the first section of this Act."

§ 1786. Definitions

The term "marketing year" as used in this chapter means the twelve-month period beginning April 1 of each calendar year or, for either wool or mohair, such other period, or periods for prescribed areas, as the Secretary may determine to be desirable to effectuate the purpose of this chapter.

(Aug. 28, 1954, ch. 1041, title VII, § 707, 68 Stat. 912.)

§ 1787. Agreements; marketing cooperatives, trade associations, etc., approval; referendum

The Secretary of Agriculture is authorized to enter into agreements with, or to approve agreements entered into between, marketing cooperatives, trade associations, or others engaged or whose members are engaged in the handling of wool, mohair, sheep, or goats or the products thereof for the purpose of developing and conducting on a national, State, or regional basis advertising and sales promotion programs and programs for the development and dissemination of information on product quality, production management, and marketing improvement, for wool, mohair, sheep, or goats or the products thereof. Advertising and sales promotion programs may be conducted outside of the United States for the purpose of maintaining and expanding foreign markets and uses for mohair or goats or the products thereof produced in the United States. Provision may be made in such agreement to obtain the funds necessary to defray the expenses incurred thereunder through pro rata deductions from the payments made under section 1784 of this title to producers within the production area he determines will be benefited by the agreement and for the assignment and transfer of the amounts so deducted to the person or agency designated in the agreement to receive such amounts for expenditure in accordance with the terms and conditions of the agreement. No agreement containing such a provision for defraying expenses through deductions shall become effective until the Secretary determines that at least two-thirds of the producers who, during a representative period determined by the Secretary, have been engaged, within the production area he determines will be benefited by the agreement, in the production for market of the commodity specified therein approve or favor such agreement or that producers who, during such representative period have produced at least two-thirds of the volume of such commodity produced within the area which will be benefited by such agreement, approve or favor such agreement. Approval or disapproval by cooperative associations shall be considered as approval or disapproval by the producers who are members of, stockholders in, or under contract with such cooperative association of producers. The Secretary may conduct a referendum among producers to ascertain their approval or favor. The requirements of approval or favor shall be held to be complied with if two-thirds of the total number of producers, or two-thirds of the total volume of production, as the case may be, represented in such referendum, indicate their approval or favor.

(Aug. 28, 1954, ch. 1041, title VII, § 708, 68 Stat. 912; Nov. 30, 1970, Pub. L. 91-524, title III, § 301(6), as added Aug. 10, 1973, Pub. L. 93-86, § 1(7)(B), 87 Stat. 224.)

AMENDMENTS

1973—Pub. L. 91-524, § 301(6), as added by Pub. L. 93-86 inserted reference to programs for the development and dissemination of information on product quality, production management, and marketing improvement and added provisions authorizing the conduct outside of the United States of advertising and sales promotion programs for the purpose of maintaining and expanding foreign markets and uses for mohair or goats or the products thereof produced in the United States.

CHAPTER 45—SOIL BANK PROGRAM

SUBCHAPTER I—GENERAL PROVISIONS

Sec.
1801 to 1816. Repealed.

SUBCHAPTER II—ACREAGE RESERVE PROGRAM

1821 to 1824. Repealed.

SUBCHAPTER III—CONSERVATION RESERVE PROGRAM

1831. Repealed.
1831a. Contract restrictions.
1832 to 1837. Repealed.

SUBCHAPTER IV—CROPLAND ADJUSTMENTS

1838. Conversion of cropland into vegetative cover, water storage, wildlife and conservation uses; contracts with farmers.
(a) Authority for calendar years 1965 through 1970; term of agreements.
(b) Terms of agreement; specifically designated acreage; land use.
(c) Federal costs; annual adjustment payment.
(d) Advertising and bid procedures.
(e) Annual adjustment payment; limitation.
(f) Termination or modification of agreements.
(g) Allotment histories.
(h) Utilization of local, county, and State committees.
(i) Transfer of funds.
(j) Conservation of open spaces, natural beauty, and recreational resources, and prevention of pollution.
(k) Limitation on payments during any calendar year.
(l) Use of facilities of Commodity Credit Corporation.
(m) Payment to successor upon death, incompetence, or disappearance of producer entitled to payment.
(n) Sharing of compensation or payments with tenants and sharecroppers.
(o) Effect of diversion on commodity programs.
(p) Advisory Board on Wildlife; membership.
(q) Rules and regulations.

SUBCHAPTER I—GENERAL PROVISIONS

§§ 1801 to 1816. Repealed. Pub. L. 89-321, title VI, § 601, Nov. 3, 1965, 79 Stat. 1206

Section 1801, act May 28, 1956, ch. 327, title I, § 102, 70 Stat. 188, set out the Congressional declaration of policy underlying the Soil Bank Program set out in former subchapters I to III of this chapter.

Section 1802, acts May 28, 1956, ch. 327, title I, § 114, 70 Stat. 196; Aug. 28, 1957, Pub. L. 85-203, § 3, 71 Stat. 478; Apr. 7, 1958, Pub. L. 85-369, 72 Stat. 81, placed an

ineligibility sanction upon failure to comply with acreage allotments.

Section 1803, act May 28, 1956, ch. 327, title I, § 115, 70 Stat. 196, prohibited the reapportionment or allotment to any other farm of acreage diverted from production as a result of participation in the acreage reserve or conservation reserve programs.

Section 1804, act May 28, 1956, ch. 327, title I, § 116, 70 Stat. 196, provided for the filing of the certificate of claimants for payment or compensation in the form prescribed by the Secretary attesting to the claimant's compliance with all requirements.

Section 1805, act May 28, 1956, ch. 327, title I, § 117, 70 Stat. 196, directed the Secretary to utilize the services of local, county, and state soil conservation committees.

Section 1806, act May 28, 1956, ch. 327, title I, § 118, 70 Stat. 196, directed the Secretary to consult with conservation, forestry, and agricultural agencies in the formation of state and local programs and to utilize federal agencies to coordinate programs and to provide technical background.

Section 1807, act May 28, 1956, ch. 327, title I, § 119, 70 Stat. 196, directed the Secretary to utilize existing land use capability data including the Soil Conservation Service's capability surveys and to carry forward to completion the nation's basic land inventory.

Section 1808, act May 28, 1956, ch. 327, title I, § 120, 70 Stat. 197, authorized the Secretary to utilize the Commodity Credit Corporation in carrying out the Soil Bank Program and allowed the transfer to federal and state agencies of funds available for carrying out the purposes of the program.

Section 1809, act May 28, 1956, ch. 327, title I, § 121, 70 Stat. 197, provided for the finality of determinations forming the basis of payment or compensation by the Secretary and authorized him to make payment in any fair or reasonable manner reflected in appropriate regulations in the case of death, incompetence, or disappearance of producers entitled to payment.

Section 1810, act May 28, 1956, ch. 327, title I, § 122, 70 Stat. 197, required the Secretary to provide adequate safeguards for tenants and sharecroppers.

Section 1811, act May 28, 1956, ch. 327, title I, § 123, 70 Stat. 198, set the penalty for grazing or harvesting any crop on acreage in violation of a Soil Bank contract and provided for the recovery of penalties by means of civil suits.

Section 1812, act May 28, 1956, ch. 327, title I, § 124, 70 Stat. 198, authorized the Secretary to promulgate rules and regulations to carry out the Soil Bank Program.

Section 1813, acts May 28, 1956, ch. 327, title I, § 125, 70 Stat. 198; Apr. 9, 1960, Pub. L. 86-423, § 2, 74 Stat. 42, restricted the leasing of government owned land for the production of price supported crops in surplus supply.

Section 1814, act May 28, 1956, ch. 327, title I, § 126, 70 Stat. 198, authorized the Secretary to permit farmers to pool their rights to participate jointly in the conservation reserve program on property other than their home farms.

Section 1815, act May 28, 1956, ch. 327, title I, § 127, as added May 16, 1958, Pub. L. 85-413, 72 Stat. 118, authorized the Secretary to provide fair and equitable treatment for producers who entered into acreage reserve or conservation reserve contracts based upon incorrect information furnished under the 1956 program through compensation for losses.

Section 1816, act May 28, 1956, ch. 327, title I, § 128, as added Sept. 14, 1959, Pub. L. 86-265, 73 Stat. 552, authorized the Secretary to pay compensation to a producer in order to provide fair and equitable treatment when the producer has suffered losses because of inaccurate information forming the basis for the contract if the producer relied in good faith upon the inaccurate information.

SAVINGS PROVISIONS

Pub. L. 89-321, title VI, § 601, Nov. 3, 1965, 79 Stat. 1206, provided in part that the Soil Bank Act of 1965 [former subchapters I to III of this chapter] shall remain in effect with respect to contracts entered into thereunder prior to its repeal by section 601 of Pub. L. 89-321.

SUBCHAPTER II—ACREAGE RESERVE PROGRAM

§§ 1821 to 1824. Repealed. Pub. L. 89-321, title VI, § 601, Nov. 3, 1965, 79 Stat. 1206

Section 1821, act May 28, 1956, ch. 327, title I, § 103, 70 Stat. 189, authorized the Secretary to carry out the acreage reserve program and spelled out the terms of eligibility, provisions of contract, and acreage reduction compensation.

Section 1822, act May 28, 1956, ch. 327, title I, § 104, 70 Stat. 190, required the Secretary to establish a national reserve acreage goal and to set the limits to be placed upon individual participation in the program.

Section 1823, act May 28, 1956, ch. 327, title I, § 105, 70 Stat. 190, established the method of compensating producers for participating in the program through the issuance of negotiable certificates redeemable by the Commodity Credit Corporation, provided for the setting of rates of compensation, and set limits upon the total compensation to be paid for wheat, cotton, corn, peanuts, rice, and tobacco.

Section 1824, act May 28, 1956, ch. 327, title I, § 106, 70 Stat. 191, required the crediting of reserve acreages as though such acreages had actually been devoted to the production of the commodity when establishing farm acreage allotments under the Agricultural Adjustment Act of 1938, as amended.

SAVINGS PROVISIONS

Pub. L. 89-321, title VI, § 601, Nov. 3, 1965, 79 Stat. 1206, provided in part that the Soil Bank Act of 1965 [former subchapters I to III of this chapter] shall remain in effect with respect to contracts entered into thereunder prior to its repeal by section 601 of Pub. L. 89-321.

SUBCHAPTER III—CONSERVATION RESERVE PROGRAM

§ 1831. Repealed. Pub. L. 89-321, title VI, § 601, Nov. 3, 1965, 79 Stat. 1206

Section, acts May 28, 1956, ch. 327, title I, § 107, 70 Stat. 191; June 11, 1960, Pub. L. 86-507, § 1(8), 74 Stat. 200; June 29, 1961, Pub. L. 87-62, § 1(a), 75 Stat. 129; July 3, 1962, Pub. L. 87-521, 76 Stat. 135, set out the terms to be included in producers' contracts under the conservation reserve program and made provisions for the use of advertising and bid procedures, termination of contracts, and notice, hearing, and judicial review of the Secretary's action in terminating a contract.

SAVINGS PROVISIONS

Pub. L. 89-321, title VI, § 601, Nov. 3, 1965, 79 Stat. 1206, provided in part that the Soil Bank Act of 1965 [former subchapters I to III of this chapter] shall remain in effect with respect to contracts entered into thereunder prior to its repeal by section 601 of Pub. L. 89-321.

§ 1831a. Contract restrictions

On and after June 13, 1958 no conservation reserve contract shall be entered into which provides for (1) payments for conservation practices in excess of the average rate for comparable practices under the Agricultural Conservation Program, or (2) annual rental payments in excess of 20 per cent of the value of the land placed under contract, such value to

be determined without regard to physical improvements thereon or geographic location thereof. In determining the value of the land for this purpose, the county committee shall take into consideration the estimate of the landowner or operator as to the value of such land as well as his certificate as to the production history and productivity of such land.

(Pub. L. 85-459, title I, § 101, June 13, 1958, 72 Stat. 195.)

CODIFICATION

Section was not enacted as part of the Soil Bank Act, which comprised this chapter.

§§ 1832 to 1837. Repealed. Pub. L. 89-321, title VI, § 601, Nov. 3, 1965, 79 Stat. 1206

Section 1832, act May 28, 1956, ch. 327, title I, § 108, 70 Stat. 194, required the Secretary to make and announce the determination of a national conservation reserve goal, set out the considerations to be used in distributing the goal among the states and major crop production regions, and provided for a report to Congress.

Section 1833, act May 28, 1956, ch. 327, title I, § 109, 70 Stat. 194, authorized the Secretary to enter into conservation reserve program contracts, set the term for such contracts, and placed a limit of $450,000,000 annually upon the payments made to producers.

Section 1834, act May 28, 1956, ch. 327, title I, § 110, 70 Stat. 194, authorized the Secretary to terminate or modify contracts by mutual agreement with producers.

Section 1835, act May 28, 1956, ch. 327, title I, § 111, 70 Stat. 195, authorized the Secretary to purchase or produce conservation materials and services and make them available to producers under the conservation reserve program.

Section 1836, acts May 28, 1956, ch. 327, title I, § 112, 70 Stat. 195; Sept. 14, 1960, Pub. L. 86-793, § 2, 74 Stat. 1030, prohibited the reduction of cropland acreage by reason of any action taken in carrying out a conservation reserve program contract and required the inclusion of acreage changed from cultivated cropland to permanent vegetation as acreage devoted to the commodity for the purpose of determining future acreage allotments.

Section 1837, acts May 28, 1956, ch. 327, title I, § 113, 70 Stat. 195; June 25, 1959, Pub. L. 86-70, § 5, 73 Stat. 142; July 12, 1960, Pub. L. 86-624, § 3, 74 Stat. 411, authorized the Secretary to apply the Soil Bank Program to Puerto Rico and the Virgin Islands in addition to the several states if such application would be in the national interest.

SAVINGS PROVISIONS

Pub. L. 89-321, title VI, § 601, Nov. 3, 1965, 79 Stat. 1206, provided in part that the Soil Bank Act of 1965 [former subchapters I to III of this chapter] shall remain in effect with respect to contracts entered into thereunder prior to its repeal by section 601 of Pub. L. 89-321.

SUBCHAPTER IV—CROPLAND ADJUSTMENTS

§ 1838. Conversion of cropland into vegetative cover, water storage, wildlife and conservation uses; contracts with farmers

(a) Authority for calendar years 1965 through 1970; term of agreements

Notwithstanding any other provision of law, for the purpose of reducing the costs of farm programs, assisting farmers in turning their land to nonagricultural uses, promoting the development and conservation of the Nation's soil, water, forest, wildlife, and recreational resources, establishing, protecting, and conserving open spaces and natural beauty, the Secretary of Agriculture is authorized to formulate and carry out a program during the calendar years 1965 through 1970 under which agreements would be entered into with producers as hereinafter provided for periods of not less than five nor more than ten years. No agreement shall be entered into under this section concerning land with respect to which the ownership has changed in the three-year period preceding the first year of the agreement period unless the new ownership was acquired by will or succession as a result of the death of the previous owner, or unless the new ownership was acquired prior to January 1, 1965, under other circumstances which the Secretary determines, and specifies by regulation, will give adequate assurance that such land was not acquired for the purpose of placing it in the program: *Provided,* That this provision shall not be construed to prohibit the continuation of an agreement by a new owner after an agreement has once been entered into under this section: *Provided further,* That the Secretary shall not require a person who has operated the land to be covered by an agreement under this section for as long as three years preceding the date of the agreement and who controls the land for the agreement period to own the land as a condition of eligibility for entering into the agreement. The foregoing provision shall not prevent a producer from placing a farm in the program if the farm was acquired by the producer to replace an eligible farm from which he was displaced because of its acquisition by any Federal, State, or other agency having the right of eminent domain.

(b) Terms of agreement; specifically designated acreage; land use

The producer shall agree (1) to carry out on a specifically designated acreage of land on the farm regularly used in the production of crops (including crops, such as tame hay, alfalfa, and clovers, which do not require annual tillage and which have been planted within five years preceding the date of the agreement), hereinafter call "designated acreage", and maintain for the agreement period practices or uses which will conserve soil, water, or forest resources, or establish or protect or conserve open spaces, natural beauty, wildlife or recreational resources, or prevent air or water pollution, in such manner as the Secretary may prescribe (priority being given to the extent practicable to practices or uses which are most likely to result in permanent retirement to noncrop uses); (2) to maintain in conserving crops or uses or allow to remain idle throughout the agreement period the acreage normally devoted to such crops or uses; (3) not to harvest any crop from or graze the designated acreage during the agreement period, unless the Secretary, after certification by the Governor of the State in which such acreage is situated of the need for grazing or harvesting of such acreage, determines that it is necessary to permit grazing or harvesting in order to alleviate damage, hardship, or suffering caused by severe drought, flood, or other natural disaster, and consents to such grazing or harvesting subject to an appropriate reduction in the rate of payment; and (4)

to such additional terms and conditions as the Secretary determines are desirable to effectuate the purposes of the program, including such measures as the Secretary may deem appropriate to keep the designated acreage free from erosion, insects, weeds, and rodents. Agreements entered into under which 1966 is the first year of the agreement period (A) shall require the producer to divert from production all of one or more crops designated by the Secretary; and (B) shall not provide for diversion from the production of upland cotton in any county in which the county committee by resolution determines, and requests of the Secretary, that there should not be such diversion in 1966.

(c) Federal costs; annual adjustment payment

Under such agreements the Secretary shall (1) bear such part of the average cost (including labor) for the county or area in which the farm is situated of establishing and maintaining authorized practices or uses on the designated acreage as the Secretary determines to be necessary to effectuate the purposes of the program, but not to exceed the average rate for comparable practices or uses under the agricultural conservation program, and (2) make an annual adjustment payment to the producer for the period of the agreement at such rate or rates as the Secretary determines to be fair and reasonable in consideration of the obligations undertaken by the producers. The rate or rates of annual adjustment payments as determined hereunder may be increased by an amount determined by the Secretary to be appropriate in relation to the benefit to the general public of the use of the designated acreage if the producer further agrees to permit, without other compensation, access to such acreage by the general public, during the agreement period, for hunting, trapping, fishing, and hiking, subject to applicable State and Federal regulations. The Secretary and the producer may agree that the annual adjustment payments for all years of the agreement period shall be made either upon approval of the agreement or in such installments as they may agree to be desirable: *Provided,* That for each year any annual adjustment payment is made in advance of performance, the annual adjustment payment shall be reduced by 5 per centum. The Secretary may provide for adjusting any payment on account of failure to comply with the terms and conditions of the program.

(d) Advertising and bid procedures

The Secretary shall, unless he determines that such action will be inconsistent with the effective administration of the program, use an advertising and bid procedure in determining the lands in any area to be covered by agreements. The total acreage placed under contract in any county or local community shall be limited to a percentage of the total eligible acreage in such county or local community which the Secretary determines would not adversely affect the economy of the county or local community. In determining such percentage the Secretary shall give appropriate consideration to the productivity of the acreage being retired as compared to the average productivity of eligible acreage in the county or local community.

(e) Annual adjustment payment; limitation

The annual adjustment payment shall not exceed 40 per centum of the estimated value, as determined by the Secretary, on the basis of prices in effect at the time the agreement is entered into, of the crops or types of crops which might otherwise be grown. The estimated value may be established by the Secretary on a county, area, or individual farm basis as he deems appropriate.

(f) Termination or modification of agreements

The Secretary may terminate any agreement with a producer by mutual agreement with the producer if the Secretary determines that such termination would be in the public interest, and may agree to such modification of agreements as he may determine to be desirable to carry out the purposes of the program or facilitate its administration.

(g) Allotment histories

Notwithstanding any other provision of law, the Secretary of Agriculture may, to the extent he deems it desirable, provide by appropriate regulations for preservation of cropland, crop acreage, and allotment history applicable to acreage diverted from the production of crops in order to establish or maintain vegetative cover or other approved practices for the purpose of any Federal program under which such history is used as a basis for an allotment or other limitation or for participation in such program.

(h) Utilization of local, county, and State committees

In carrying out the program, the Secretary shall utilize the services of local, county, and State committees established under section 590h of title 16.

(i) Transfer of funds

For the purpose of obtaining an increase in the permanent retirement of cropland to noncrop uses the Secretary may, notwithstanding any other provision of law, transfer funds available for carrying out the program to any other Federal agency or to States or local government agencies for use in acquiring cropland for the preservation of open spaces, natural beauty, the development of wildlife or recreational facilities, or the prevention of air or water pollution under terms and conditions consistent with and at costs not greater than those under agreements entered into with producers, provided the Secretary determines that the purposes of the program will be accomplished by such action.

(j) Conservation of open spaces, natural beauty, and recreational resources, and prevention of pollution

The Secretary also is authorized to share the cost with State and local governmental agencies in the establishment of practices or uses which will establish, protect, and conserve open spaces, natural beauty, wildlife or recreational resources, or prevent air or water pollution under terms and conditions and at costs consistent with those under agreements entered into with producers, provided the Secretary determines that the purposes of the program will be accomplished by such action.

(k) Limitation on payments during any calendar year

In carrying out the program, the Secretary shall not during any of the fiscal years ending June 30, 1966 through June 30, 1969 or during the period June 30, 1969 through December 31, 1970, enter into agreements with producers which would require payments to producers in any calendar year under such agreements in excess of $225,000,000 plus any amount by which agreements entered into in prior fiscal years require payments in amounts less than authorized for such prior fiscal years. For purposes of applying this limitation, the annual adjustment payment shall be chargeable to the year in which performance is rendered regardless of the year in which it is made.

(*l*) Use of facilities of Commodity Credit Corporation

The Secretary is authorized to utilize the facilities, services, authorities, and funds of the Commodity Credit Corporation in discharging his functions and responsibilities under this program, including payment of costs of administration: *Provided*, That after December 31, 1966, the Commodity Credit Corporation shall not make any expenditures for carrying out the purposes of this subchapter unless the Corporation has received funds to cover such expenditures from appropriations made to carryout the purposes of this subchapter. There are hereby authorized to be appropriated such sums as may be necessary to carry out the program, including such amounts as may be required to make payments to the Corporation for its actual costs incurred or to be incurred under this program.

(m) Payment is successor upon death, incompetence, or disappearance of producer entitled to payment

In case any producer who is entitled to any payment or compensation dies, becomes incompetent, or disappears before receiving such payment or compensation, or is succeeded by another who renders or completes the required performance, the payment or compensation shall, without regard to any other provisions of law, be made as the Secretary may determine to be fair and reasonable in all the circumstances and so provide by regulations.

(n) Sharing of compensation or payments with tenants and sharecroppers

The Secretary shall provide adequate safeguards to protect the interests of tenants and sharecroppers, including provision for sharing, on a fair and equitable basis, in payments or compensation under this program.

(*o*) Effect of diversion on commodity programs

The acreage on any farm which is diverted from the production of any commodity pursuant to an agreement hereafter entered into under this subchapter shall be deemed to be acreage diverted from that commodity for the purposes of any commodity program under which diversion is required as a condition of eligibility for price support.

(p) Advisory Board on Wildlife; membership

The Secretary may, without regard to the civil service laws, appoint an Advisory Board on Wildlife to advise and consult on matters relating to his functions under this subchapter as he deems appropriate. The Board shall consist of twelve persons chosen from members of wildlife organizations, farm organizations, State game and fish agencies, and representatives of the general public. Members of such Advisory Board who are not regular full-time employees of the United States shall not be entitled to any compensation or expenses.

(q) Rules and regulations

The Secretary shall prescribe such regulations as he determines necessary to carry out the provisions of this subchapter.

(Pub. L. 89-321, title VI, § 602, Nov. 3, 1965, 79 Stat. 1206; Pub. L. 90-210, Dec. 18, 1967, 81 Stat. 657; Pub. L. 90-559, § 1(1), (7), Oct. 11, 1968, 82 Stat. 996.)

REFERENCES IN TEXT

The civil service laws, referred to in subsec. (p), are set forth in Title 5, Government Organization and Employees. See particularly, section 3301 et seq. of that title.

CODIFICATION

The last sentence of section 602(g) of Pub. L. 89-321 repealed section 590p(b)(3), (4), and (e)(6) of Title 16, Conservation, and was omitted from subsec. (g) of this section.

AMENDMENTS

1968—Subsec. (a). Pub. L. 90-559, § 1(1), provided for a one year extension through 1970.

Subsec. (k). Pub. L. 90-559, § 1(7), substituted "June 30, 1969" for "June 30, 1968" in two instances and "December 31, 1970" for "December 31, 1969".

1967—Subsec. (a). Pub. L. 90-210 permitted a farm to be placed in the cropland adjustment program without regard to the length of past ownership if that farm was acquired in replacement of an eligible farm which was taken by any Federal, State, or other agency by means of eminent domain proceedings.

TERMINATION OF ADVISORY BOARDS

Advisory Boards in existence on Jan. 5, 1973, to terminate not later than the expiration of the two-year period following Jan. 5, 1973, unless, in the case of a Board established by the President or an officer of the Federal Government, such Board is renewed by appropriate action prior to the expiration of such two-year period, or in the case of a Board established by the Congress, its duration is otherwise provided by law, see sections 3(2) and 14 of Pub. L. 92-463, Oct. 6, 1972, 86 Stat. 770, 776, set out in the Appendix to Title 5, Government Organization and Employees.

CHAPTER 46—SURPLUS DISPOSAL OF AGRICULTURAL COMMODITIES

Sec.
1851. Disposal of stocks; annual report.
1852. Extra-long staple cotton; quota; sale for export.
1852a. Repealed.
1853. Export sales program for cotton.
1854. Agreements limiting imports.
1855. Supplemental appropriations to encourage exportation and domestic consumption of agricultural products.
1856. Transfer of bartered materials to supplemental stockpile; limitation of acquisition to certain programs; authorization of appropriations.
1857. Surplus Disposal Administrator; appointment; duties.
1858. Repealed.
1859. Donation to penal and correctional institutions.

Sec.
1860. Federal irrigation, drainage, and flood-control projects.
(a) Restriction on crop loans or farm payments or benefits.
(b) Contract provisions; ineligibility for benefits.
(c) Determination and proclamation of surplus agricultural commodities.
(d) Definitions.

§ 1851. Disposal of stocks; annual report

(a) The Commodity Credit Corporation shall, as rapidly as possible consistent with its existing authority, the operation of the price support program, and orderly liquidation, dispose of all stocks of agricultural commodities held by it.

(b) The Secretary shall report annually on his operations under subsection (a) of this section and such reports shall show—

(1) the quantities of surplus commodities on hand;

(2) the methods of disposition utilized and the quantities disposed of during the preceding twelve months;

(3) the methods of disposition to be utilized and the estimated quantities that can be disposed of during the succeeding twelve months;

(4) a detailed program for the expansion of markets for surplus agricultural commodities through marketing and utilization research and improvement of marketing facilities; and

(5) recommendations for additional legislation necessary to accomplish the purposes of this section.

(May 28, 1956, ch. 327, title II, § 201, 70 Stat. 198.)

CODIFICATION

Provisions of subsec. (b) which required the Secretary to submit recommendations to Congress within 90 days after May 28, 1956, are omitted as executed.

§ 1852. Extra-long staple cotton; quota; sale for export

(a) On and after May 28, 1956, the quota for cotton having a staple length of one and one-eighth inches or more, established September 20, 1939, pursuant to section 624 of this title, shall apply to the same grades and staple lengths included in the quota when such quota was initially established. Such quota shall provide for cotton having a staple length of one and eleven-sixteenths inches and longer, and shall establish dates for the quota year which will recognize and permit entry to conform to normal marketing practices and requirements for such cotton.

(b) Beginning not later than August 1, 1956, the Commodity Credit Corporation is directed to sell for export at competitive world prices its stocks of domestically produced extra long staple cotton on hand on May 28, 1956. The amount offered and the price accepted by the Commodity Credit Corporation shall be such as to dispose of such quantity in an orderly manner and within a reasonable period of time.

(May 28, 1956, ch. 327, title II, § 202, 70 Stat. 199.)

§ 1852a. Repealed. Pub. L. 90–475, § 8, Aug. 11, 1968, 82 Stat. 703

Section, Pub. L. 88–638, § 3, Oct. 8, 1964, 78 Stat. 1038, authorized the Commodity Credit Corporation to encourage export sales of extra long staple cotton which is in surplus supply at competitive world prices.

EFFECTIVE DATE OF REPEAL

Section 8 of Pub. L. 90–475 provided in part that the effective date of repeal of this section is Aug. 1, 1968.

§ 1853. Export sales program for cotton

In furtherance of the current policy of the Commodity Credit Corporation of offering surplus agricultural commodities for sale for export at competitive world prices, the Commodity Credit Corporation is directed to use its existing powers and authorities immediately upon the enactment of this Act to encourage the export of cotton by offering to make cotton available at prices not in excess of the level of prices at which cottons of comparable qualities are being offered in substantial quantity by other exporting countries and, in any event, for the cotton marketing year beginning August 1, 1956, at prices not in excess of the minimum prices (plus carrying charges, beginning October 1, 1956, as established pursuant to section 1427 of this title) at which cottons of comparable qualities were sold under the export program announced by the United States Department of Agriculture on August 12, 1955. The Commodity Credit Corporation may accept bids in excess of the maximum prices specified herein but shall not reject bids at such maximum prices unless a higher bid is received for the same cotton. Cottons of qualities not comparable to those of cottons sold under the program announced on August 12, 1955, shall be offered at prices not in excess of the maximum prices prescribed hereunder for cottons of qualities comparable to those of cottons sold under such program, with appropriate adjustment for differences in quality. Such quantities of cotton shall be sold as will reestablish and maintain the fair historical share of the world market for United States cotton, said volume to be determined by the Secretary of Agriculture.

(May 28, 1956, ch. 327, title II, § 203, 70 Stat. 199.)

REFERENCES IN TEXT

The enactment of this Act, referred to in the text, means the enactment of the Agricultural Act of 1956, which was May 28, 1956.

AGRICULTURAL ACT OF 1958 NOT TO AFFECT COTTON EXPORT PROGRAM

Section 110 of Pub. L. 85–835, Aug. 28, 1958, 72 Stat. 993, provided that: "Nothing in this Act [see Short Title note under section 1344 of this title] shall be construed to affect or modify the provisions of section 203 of the Agricultural Act of 1956 [this section], and any cotton owned or acquired by the Commodity Credit Corporation under any price support program may be used for the purpose of carrying out the cotton export program provided for in section 203 of the Agricultural Act of 1956 [this section]."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1349 of this title.

§ 1854. Agreements limiting imports

The President may, whenever he determines such action appropriate, negotiate with representatives of foreign governments in an effort to obtain agreements limiting the export from such countries and the importation into the United States or any agricultural commodity or product manufactured therefrom or textiles or textile products, and the President is authorized to issue regulations governing the entry or withdrawal from warehouse of any such commodity, product, textiles, or textile products to carry out any such agreement. In addition, if a multilateral agreement has been or shall be concluded under the authority of this section among countries accounting for a significant part of world trade in the articles with respect to which the agreement was concluded, the President may also issue, in order to carry out such an agreement, regulations governing the entry or withdrawal from warehouse of the same articles which are the products of countries not parties to the agreement. Nothing herein shall affect the authority provided under section 624 of this title.

(May 28, 1956, ch. 327, title II, § 204, 70 Stat. 200; June 19, 1962, Pub. L. 87-488, 76 Stat. 104.)

AMENDMENTS

1962—Pub. L. 87-488 authorized the President to issue regulations governing entry or withdrawal from warehouse of articles which are products of countries not parties to a multilateral agreement respecting such articles.

EX. ORD. NO. 11539. DELEGATIONS OF AUTHORITY CONCERNING CERTAIN MEATS

Ex. Ord. No. 11539, June 30, 1970, 35 F.R. 10733, provided:

By virtue of the authority vested in me by section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854) [this section], and section 301 of title 3 of the United States Code and as President of the United States, it is ordered as follows:

SECTION 1. The Secretary of State, with the concurrence of the Secretary of Agriculture and the Special Representative for Trade Negotiations, is authorized to negotiate bilateral agreements with representatives of governments of foreign countries limiting the export from the respective countries and the importation into the United States of fresh, chilled, or frozen cattle meat (item 106.10 of the Tariff Schedules of the United States) [section 1202 of Title 19] and fresh, chilled, or frozen meat of goats and sheep, except lambs (item 106.20 of the Tariff Schedules of the United States) which are the products of such countries.

SEC. 2. The Secretary of Agriculture, with the concurrence of the Secretary of State and the Special Representative for Trade Negotiations, is authorized to issue regulations governing the entry or withdrawal from warehouse for consumption in the United States of any such meats to carry out any such agreement.

SEC. 3. The Commissioner of Customs shall take such actions and supply such information to the Secretary of Agriculture with respect to entry or withdrawal from warehouse for consumption in the United States of such meats as the Secretary of Agriculture, with the Concurrence of the Secretary of State and the Special Representative for Trade Negotiations, may request to carry out any such agreements or regulations.

SEC. 4. Heads of departments and heads of agencies are hereby authorized to redelegate within their respective departments or agencies the functions herein assigned to them, except that the function of negotiating agreements delegated to the Secretary of State by section 1 and the function of issuing regulations delegated to the Secretary of Agriculture by section 2 of this order may be redelegated only to officials required to be appointed by and with the advice and consent of the Senate, as provided by 3 U.S.C. 301.

RICHARD NIXON.

EX. ORD. NO. 11651. TEXTILE TRADE AGREEMENTS

Ex. Ord. No. 11651, Mar. 3, 1972, 37 F.R. 4699, as amended by Ex. Ord. No. 11951, Jan. 6, 1977, 42 F.R. 1453, provided:

By virtue of the authority vested in me by Section 204 of the Agricultural Act of 1956 (76 Stat. 104), as amended (7 U.S.C. 1854) [this section], and section 301 of title 3 of the United States Code, and as President of the United States, it is hereby ordered as follows:

SECTION 1. (a) The Committee for the Implementation of Textile Agreements (hereinafter referred to as the Committee), consisting of representatives of the Departments of State, the Treasury, Commerce, and Labor, with the representative of the Department of Commerce as Chairman, is hereby established to supervise the implementation of all textile trade agreements. It shall be located for administrative purposes in the Department of Commerce. The President's Special Representative for Trade Negotiations, or his designee, shall be a non-voting member of the Committee.

(b) Except as provided in subsection (c) of this section, the Chairman of the Committee, after notice to the representatives of the other member agencies, shall take such actions or shall recommend that appropriate officials or agencies of the United States take such actions as may be necessary to implement each such textile trade agreement: Provided, however, that if a majority of the voting members of the Committee have objected to such action within ten days of receipt of notice from the Chairman, such action shall not be taken except as may otherwise be authorized.

(c) To the extent authorized by the President and by such officials as the President may from time to time designate, the Committee shall take appropriate actions concerning textiles and textile products under Section 204 of the Agricultural Act of 1956, as amended [this section], and Articles 3 and 8 of the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, and with respect to any other matter affecting textile trade policy.

SEC. 2. (a) The Commissioner of Customs shall take such actions as the Committee, acting through its Chairman, shall recommend to carry out all agreements and arrangements entered into by the United States pursuant to Section 204 of the Agricultural Act of 1956, as amended [this section], with respect to entry, or withdrawal from warehouse, for consumption in the United States of textiles and textile products.

(b) Under instructions approved by the Committee, the Secretary of State shall designate the Chairman of the United States delegation to all negotiations and consultations with foreign governments undertaken with respect to the implementation of textile trade agreements pursuant to this Order. The Secretary of State shall make such representations to foreign governments, including the presentation of diplomatic notes and other communications, as may be necessary to carry out this Order.

SEC. 3. Executive Order No. 11052 of September 28, 1962, as amended, and Executive Order No. 11214 of April 7, 1965, are hereby superseded. Directives issued thereunder to the Commissioner of Customs shall remain in full force and effect in accordance with their terms until modified pursuant to this Order.

SEC. 4. This Order shall be effective upon its publication in the FEDERAL REGISTER.

RICHARD NIXON.

EX. ORD. NO. 11851. DELEGATION OF AUTHORITY TO ISSUE REGULATIONS LIMITING IMPORTS OF CERTAIN CHEESES

Ex. Ord. No. 11851, April 10, 1975, 40 F.R. 16645, provided:

By virtue of the authority vested in me by section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854), and section 301 of Title 3 of the United States Code, and as President of the United States, it is ordered as follows:

SECTION 1. The Secretary of the Treasury, with the concurrence of the Secretary of State and the Special Representative for Trade Negotiations, in order to implement an agreement concluded in December 1974 with the Commission of the European Communities designed to prevent the transshipment to the United States of certain cheeses on which restitution payments have been made, is authorized to issue regulations:

(a) to prevent the importation into the Customs Territory of the United States, except for the Commonwealth of Puerto Rico, of certain cheeses, originating in member states of the European Communities, upon which restitution payments have been made for export to (1) Puerto Rico, the Virgin Islands, other United States possessions and territories or (2) any country other than the United States;

(b) to prevent the importation of such cheeses into the Commonwealth of Puerto Rico if such cheeses are imported into the Commonwealth of Puerto Rico for transshipment to other areas of the Customs Territory of the United States.

SEC. 2. Heads of departments and heads of agencies are hereby authorized to redelegate within their respective departments or agencies the functions herein assigned to them, except that the function of issuing regulations delegated to the Secretary of the Treasury by Section 1 of this order may be redelegated only to officials required to be appointed by and with the advice and consent of the Senate, as provided by 3 U.S.C. 301.

GERALD R. FORD.

§ 1855. Supplemental appropriations to encourage exportation and domestic consumption of agricultural products

There is hereby authorized to be appropriated for each fiscal year, beginning with the fiscal year ending June 30, 1957, the sum of $500,000,000 to enable the Secretary of Agriculture to further carry out the provisions of section 612c of this title, subject to all provisions of law relating to the expenditure of funds appropriated by such section, except that up to 50 per centum of such $500,000,000 may be devoted during any fiscal year to any one agricultural commodity or the products thereof.

(May 28, 1956, ch. 327, title II, § 205, 70 Stat. 200.)

§ 1856. Transfer of bartered materials to supplemental stockpile; limitation of acquisition to certain programs; authorization of appropriations

(a) Strategic and other materials acquired by the Commodity Credit Corporation as a result of barter or exchange of agricultural commodities or products, unless acquired for the national stockpile established pursuant to the Strategic and Critical Materials Stock Piling Act [50 U.S.C. 98 et seq.], or for other purposes shall be transferred to the supplemental stockpile established by section 1704(b) of this title; but no strategic or critical material shall be acquired by the Commodity Credit Corporation as a result of such barter or exchange except for such national stockpile, for such supplemental stockpile, for foreign economic or military aid or assistance programs, or for offshore construction programs, or to meet requirements of Government agencies.

(b) Repealed. Pub. L. 87-456, title III, § 303(c), May 24, 1962, 76 Stat. 78.

(c) In order to reimburse the Commodity Credit Corporation for materials transferred to the supplemental stockpile there are hereby authorized to be appropriated amounts equal to the value of any materials so transferred. The value of any such material for the purpose of this subsection, shall be the lower of the domestic market price or the Commodity Credit Corporation's investment therein as of the date of such transfer as determined by the Secretary of Agriculture.

(May 28, 1956, ch. 327, title II, § 206, 70 Stat. 200; Sept. 6, 1958, Pub. L. 85-931, § 7, 72 Stat. 1791; Sept. 21, 1959, Pub. L. 86-341, title II, § 204, 73 Stat. 611; May 24, 1962, Pub. L. 87-456, title III, § 303(c), 76 Stat. 78.)

REFERENCES IN TEXT

The Strategic and Critical Materials Stock Piling Act referred to in subsec. (a), is act June 7, 1939, ch. 190, 53 Stat. 811, which is classified generally to subchapter III (§ 98 et seq.) of chapter 5 of Title 50, War and National Defense. For complete classification of this Act to the Code, see Short Title note set out under section 98 of Title 50 and Tables volume.

AMENDMENTS

1962—Subsec. (b). Pub. L. 87-456 repealed former subsec. (b), which permitted strategic materials acquired by the Commodity Credit Corporation as a result of barter or exchange of agricultural commodities or products to be entered, or withdrawn from warehouse, free of duty. See Revised Tariff Schedules set out in section 1202 of Title 19, Customs Duties.

1959—Subsec. (a). Pub. L. 86-341 authorized acquisition of strategic and critical materials for national stockpile to meet requirements of Government agencies.

1958—Subsec. (a). Pub. L. 85-931 limited acquisition of strategic and critical materials for national stockpile, supplemental stockpile, foreign economic or military aid or assistance programs and offshore construction programs.

EFFECTIVE DATE OF 1962 AMENDMENT

Repeal of subsec. (b) of this section effective with respect to articles entered, or withdrawn from warehouse, for consumption on or after Aug. 31, 1963, see section 501(a) of Pub. L. 87-456.

§ 1857. Surplus Disposal Administrator; appointment; duties

The Secretary of Agriculture is authorized to appoint an agricultural surplus disposal administrator whose duties shall include responsibility for activities of the Department, including those of the Commodity Credit Corporation, relating to the disposal of surplus agricultural commodities as the Secretary may direct.

(May 28, 1956, ch. 327, title II, § 207, 70 Stat. 200; Oct. 11, 1962, Pub. L. 87-793, § 607(a)(6), 76 Stat. 849.)

AMENDMENTS

1962—Pub. L. 87-793 eliminated provisions which authorized payment of salary at a rate not exceeding $15,000 per annum.

EFFECTIVE DATE OF 1962 AMENDMENT

Repeal of provisions of this section by Pub. L. 87-793 effective on the first day of the first pay period which begins on or after Oct. 11, 1962, see section 610 of Pub. L. 87-793.

§ 1858. Repealed. Pub. L. 89-544, § 8(a), Sept. 6, 1966, 80 Stat. 658

Section, act May 28, 1956, ch. 327, title II, § 209, 70 Stat. 201, established a bipartisan Commission on Increased Industrial Use of Agricultural Products.

§ 1859. Donation to penal and correctional institutions

Notwithstanding any other limitations as to the disposal of surplus commodities acquired through price support operations, the Commodity Credit Corporation is authorized on such terms and under such regulations as the Secretary of Agriculture may deem in the public interest, and upon application, to donate food commodities acquired through price support operations to Federal penal and correctional institutions, and to State correctional institutions for minors, other than those in which food service is provided for inmates on a fee, contract, or concession basis.

(May 28, 1956, ch. 327, title II, § 210, 70 Stat. 202.)

AUTHORIZATION FOR COMMODITY CREDIT CORPORATION TO PURCHASE AND DONATE FLOUR AND CORNMEAL

Pub. L. 85-683, Aug. 19, 1958, 72 Stat. 635 as authorizing Commodity Credit Corporation to purchase and donate flour and cornmeal when it has wheat or corn available for donation pursuant to this section, see note set out under section 1431 of this title.

§ 1860. Federal irrigation, drainage, and flood-control projects

(a) Restriction on crop loans or farm payments or benefits

For a period of three years from May 28, 1956, no agricultural commodity determined by the Secretary of Agriculture in accordance with subsection (c) of this section to be in surplus supply shall receive any crop loans or Federal farm payments or benefits if grown on any newly irrigated or drained lands within any Federal irrigation or drainage project hereafter authorized unless such lands were used for the production of such commodity prior to May 28, 1956.

(b) Contract provisions; ineligibility for benefits

The Secretary of the Interior and the Secretary of Agriculture shall cause to be included, in all irrigation, drainage, or flood-control contracts entered into with respect to Federal irrigation, drainage, or flood-control projects hereafter authorized, such provisions as they may deem necessary to provide for the enforcement of the provisions of this section. For a period of three years from May 28, 1956, surplus crops grown on lands reclaimed by flood-control projects hereafter authorized and the lands so reclaimed shall be ineligible for any benefits under the soil-bank provisions of this Act and under price support legislation.

(c) Determination and proclamation of surplus agricultural commodities

On or before October 1 of each year, the Secretary of Agriculture shall determine and proclaim the agricultural commodities the supplies of which are in excess of estimated requirements for domestic consumption and export plus adequate reserves for emergencies. The commodities so proclaimed shall be considered to be in surplus supply for the purposes of this section during the succeeding crop year.

(d) Definitions

For the purposes of this section the term "Federal irrigation or drainage project" means any irrigation or drainage project subject to the Federal reclamation laws (Act of June 17, 1902, 32 Stat. 388, and Acts amendatory thereof or supplementary thereto) in effect at the date of the adoption of this amendment and any irrigation or drainage project subject to the laws relating to irrigation and drainage administered by the Department of Agriculture or the Secretary of Agriculture.

(May 28, 1956, ch. 327, title II, § 211, 70 Stat. 202.)

REFERENCES IN TEXT

The soil-bank provisions of this Act, referred to in subsec. (b), probably has reference to those provisions of the Agricultural Act of 1956 which enacted the Soil Bank Act, and which were classified to chapter 45 (§ 1801 et seq.) of this title.

The Federal reclamation laws (act of June 17, 1902, 32 Stat. 388 and act amendatory thereof or supplementary thereto), referred to in subsec. (d), are classified generally to Title 43, Public Lands.

The date of the adoption of this amendment, referred to in subsec. (d), probably means the date of enactment of the Agricultural Act of 1956, which was May 28, 1956.

CHAPTER 47—INTERCHANGE OF DEPARTMENT OF AGRICULTURE AND STATE EMPLOYEES

§§ 1881 to 1888. Repealed. Pub. L. 91-648, title IV, § 403, Jan. 5, 1971, 84 Stat. 1925

Sections, act Aug. 2, 1956, ch. 878, §§ 1-8, 70 Stat. 934, related to:

Section 1881, declaration of purpose;

Section 1882, definitions;

Section 1883, cooperative agreements and period of assignment;

Section 1884, amended Aug. 4, 1965, Pub. L. 89-106, § 6, 79 Stat. 432, Departmental employees, status, salary and leave rights, and disability or death arising out of injury;

Section 1885, travel expenses of departmental employees;

Section 1886, State employees: appointments or detail, compensation, and supervision of duties;

Section 1887, State employees: conflict of interest and disability or death arising out of injury; and

Section 1888, travel expenses of state employees.

Subject matter is now covered by section 3371 et seq. of Title 5, Government Organization and Employees.

EFFECTIVE DATE OF REPEAL

Repeal of sections effective sixty days after Jan. 5, 1971, see section 404 of Pub. L. 91-648, set out as a note under section 3371 of Title 5, Government Organization and Employees.

CHAPTER 48—HUMANE METHODS OF LIVESTOCK SLAUGHTER

Sec.
1901. Findings and declaration of policy.
1902. Humane methods.
1903. Limitations on Government procurement and price support; modification during national emergency; statement of eligibility.
1904. Methods research; designation of methods; identification of carcasses; handling.
1905. Advisory committee; functions; composition; compensation; meetings; reports.
1906. Exemption of ritual slaughter.

§ 1901. Findings and declaration of policy

The Congress finds that the use of humane methods in the slaughter of livestock prevents needless suffering; results in safer and better working conditions for persons engaged in the slaughtering industry; brings about improvement of products and economies in slaughtering operations; and produces other benefits for producers, processors, and consumers which tend to expedite an orderly flow of livestock and livestock products in interstate and foreign commerce. It is therefore declared to be the policy of the United States that the slaughtering of livestock and the handling of livestock in connection with slaughter shall be carried out only by humane methods.

(Pub. L. 85-765, § 1, Aug. 27, 1958, 72 Stat. 862.)

§ 1902. Humane methods

No method of slaughtering or handling in connection with slaughtering shall be deemed to comply with the public policy of the United States unless it is humane. Either of the following two methods of slaughtering and handling are hereby found to be humane:

(a) in the case of cattle, calves, horses, mules, sheep, swine, and other livestock, all animals are rendered insensible to pain by a single blow or gunshot or an electrical, chemical or other means that is rapid and effective, before being shackled, hoisted, thrown, cast, or cut; or

(b) by slaughtering in accordance with the ritual requirements of the Jewish faith or any other religious faith that prescribed a method of slaughter whereby the animal suffers loss of consciousness by anemia of the brain caused by the simultaneous and instantaneous severance of the carotid arteries with a sharp instrument.

(Pub. L. 85-765, § 2, Aug. 27, 1958, 72 Stat. 862.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1906 of this title.

§ 1903. Limitations on Government procurement and price support; modification during national emergency; statement of eligibility

The public policy declared in this chapter shall be taken into consideration by all agencies of the Federal Government in connection with all procurement and price support programs and operations and after June 30, 1960, no agency or instrumentality of the United States shall contract for or procure any livestock products produced or processed by any slaughterer or processor which in any of its plants or in any plants of any slaughterer or processor with which it is affiliated slaughters or handles in connection with slaughter livestock by any methods other than methods designated and approved by the Secretary of Agriculture (hereinafter referred to as the Secretary) pursuant to section 1904 of this title: *Provided*, That during the period of any national emergency declared by the President or the Congress, the limitations on procurement required by this section may be modified by the President to the extent determined by him to be necessary to meet essential procurement needs during such emergency. For the purposes of this section a slaughterer or processor shall be deemed to be affiliated with another slaughterer or processor if it controls, is controlled by, or is under common control with, such other slaughterer or processor. After June 30, 1960, each supplier from which any livestock products are procured by any agency of the Federal Government shall be required by such agency to make such statement of eligibility under this section to supply such livestock products as, if false, will subject the maker thereof to prosecution, section 287 of title 18.

(Pub. L. 85-765, § 3, Aug. 27, 1958, 72 Stat. 862.)

CONTRACTS FOR OR PROCUREMENT OF LIVESTOCK PRODUCTS DURING THE PERIOD FROM JUNE 30, 1960, TO AUGUST 30, 1960

Pub. L. 86-547, June 29, 1960, 74 Stat. 255, permitted any agency or instrumentality of the United States, during the period from June 30, 1960, to August 30, 1960, to contract for or procure livestock products produced or processed by a slaughterer or processor which slaughters or handles for slaughter livestock by methods other than those designated and approved by the Secretary of Agriculture if such slaughterer or processor has contracted for the purchase of the equipment necessary to enable him to adopt such methods but such equipment has not been delivered to him.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1904 of this title.

§ 1904. Methods research; designation of methods; identification of carcasses; handling

In furtherance of the policy expressed herein the Secretary is authorized and directed—

(a) to conduct, assist, and foster research, investigation, and experimentation to develop and determine methods of slaughter and the handling of livestock in connection with slaughter which are practicable with reference to the speed and scope of slaughtering operations and humane with reference to other existing methods and then current scientific knowledge;

(b) on or before March 1, 1959, and at such times thereafter as he deems advisable, to designate methods of slaughter and of handling in connection with slaughter which, with respect to each species of livestock, conform to the policy stated in this chapter. If he deems it more effective, the Secretary may make any such designation by designating methods which are not in conformity with such policy. Designations by the Secretary subsequent to March 1, 1959, shall become effective for purposes of section 1903 of this

title 180 days after their publication in the Federal Register;

(c) to provide suitable means of identifying the carcasses of animals inspected and passed under the Meat Inspection Act [21 U.S.C. 601 et seq.] that have been slaughtered in accordance with the public policy declared in this chapter. Handling in connection with such slaughtering which necessarily accompanies the method of slaughter described in subsection (b) of this section shall be deemed to comply with the public policy specified by this section.

(Pub. L. 85-765, § 4, Aug. 27, 1958, 72 Stat. 863.)

REFERENCES IN TEXT

The Meat Inspection Act, referred to in subsec. (c) of this section, is act Mar. 4, 1907, ch. 2907, 34 Stat. 1260, which is classified to subchapters I to IV (§ 601 et seq.) of chapter 12 of Title 21, Food and Drugs.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1903, 1905 of this title.

§ 1905. Advisory committee; functions; composition; compensation; meetings; reports

To assist in implementing the provisions of section 1904 of this title, the Secretary is authorized to establish an advisory committee. The functions of the Advisory Committee shall be to consult with the Secretary and other appropriate officials of the Department of Agriculture and to make recommendations relative to (a) the research authorized in section 1904 of this title; (b) obtaining the cooperation of the public, producers, farm organizations, industry groups, humane associations, and Federal and State agencies in the furtherance of such research and the adoption of improved methods; and (c) the designations required by section 1904 of this title. The Committee shall be composed of twelve members, of whom one shall be an officer or employee of the Department of Agriculture designated by the Secretary (who shall serve as Chairman); two shall be representatives of national organizations of slaughterers; one shall be a representative of the trade-union movement engaged in packinghouse work; one shall be a representative of the general public; two shall be representatives of livestock growers; one shall be a representative of the poultry industry; two shall be representatives of national organizations of the humane movement; one shall be a representative of a national professional veterinary organization; and one shall be a person familiar with the requirements of religious faiths with respect to slaughter. The Department of Agriculture shall assist the Committee with such research personnel and facilities as the Department can make available. Committee members other than the Chairman shall not be deemed to be employees of the United States and are not entitled to compensation but the Secretary is authorized to allow their travel expenses and subsistence expenses in connection with their attendance at regular or special meetings of the Committee. The Committee shall meet at least once each year and at the call of the Secretary and shall from time to time submit to the Secretary such reports and recommendations with respect to new or improved methods as it believes should be taken into consideration by him in making the designations required by section 1904 of this title and the Secretary shall make all such reports available to the public.

(Pub. L. 85-765, § 5, Aug. 27, 1958, 72 Stat. 863.)

TERMINATION OF ADVISORY COMMITTEES

Advisory Committees in existence on Jan. 5, 1973, to terminate not later than the expiration of the two-year period following Jan. 5, 1973, unless, in the case of a committee established by the President or an officer of the Federal Government, such committee is renewed by appropriate action prior to the expiration of such two-year period, or in the case of a committee established by the Congress, its duration is otherwise provided by law, see section 14 of Pub. L. 92-463, Oct. 6, 1972, 86 Stat. 770, 776, set out in the Appendix to Title 5, Government Organization and Employees.

§ 1906. Exemption of ritual slaughter

Nothing in this chapter shall be construed to prohibit, abridge, or in any way hinder the religious freedom of any person or group. Notwithstanding any other provision of this chapter, in order to protect freedom of religion, ritual slaughter and the handling or other preparation of livestock for ritual slaughter are exempted from the terms of this chapter. For the purposes of this section the term "ritual slaughter" means slaughter in accordance with section 1902(b) of this title.

(Pub. L. 85-765, § 6, Aug. 27, 1958, 72 Stat. 864.)

CHAPTER 49—CONSULTATION ON AGRICULTURAL PROGRAMS

Sec.

1911. Consultation of Secretary of Agriculture with farmers, farm and commodity organizations and other persons and organizations; travel and per diem expenses.
1912. Submission of legislative proposals.
1913. Authority of Secretary of Agriculture under other provisions of law and to establish and consult with advisory committees.

§ 1911. Consultation of Secretary of Agriculture with farmers, farm and commodity organizations and other persons and organizations; travel and per diem expenses

(a) Notwithstanding any other provision of law, whenever the Secretary of Agriculture determines that additional legislative authority is necessary to develop new agricultural programs involving supply adjustments or marketing regulations through marketing orders, marketing quotas, or price support programs with respect to any agricultural commodity, or to make substantial revisions in any existing agricultural legislation or programs, he may consult and advise with farmers, farm organizations, and appropriate commodity organizations, if any, for the commodity involved, to review the problems involved, the need for new legislation, and the provisions which should be included in any such proposed legislation.

(b) In addition, whenever and to the extent he deems such action necessary or desirable, the Secretary of Agriculture may consult and advise with any person or group of persons, or organizations, including farmers, handlers, processors, or others connected with the production, processing, handling, or use of the com-

modity involved, with respect to the problems involved and need for legislation and the provisions which should be included in any such proposed legislation.

(c) In order that the Secretary of Agriculture may be assured of being able to obtain the advice of any such person or organization, he is authorized, whenever he determines such action necessary, to pay for each day's attendance at meetings and while traveling to and from such meetings, transportation expenses and in lieu of subsistence, a per diem in the amount authorized under subchapter I of chapter 57 of title 5 for Federal employees. No salary or other compensation shall be paid.

(Pub. L. 87-128, title I, § 102, Aug. 8, 1961, 75 Stat. 295.)

CODIFICATION

In subsec. (c), "subchapter I of chapter 57 of title 5" was substituted for "the Travel Expense Act of 1949" on authority of section 7(b) of Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 631, the first section of which enacted Title 5, Government Organization and Employees.

SHORT TITLE

Section 1 of Pub. L. 87-128 provided: "That this Act [enacting sections 1013a, 1911 to 1913, 1921 to 1933, 1941 to 1947, 1961 to 1968, former section 1969, sections 1970, 1971, 1981 to 1993, and 2261 of this title, amending sections 602, 608a, 608c, 608e-1, 1334, 1335, 1336, 1340, 1444b, 1446a, 1701, 1703, 1704, 1706, 1709, 1723, 1724, and 1782 of this title and section 590p of Title 16, repealing sections 1001 to 1005d, 1006c to 1006e, 1007, 1008, 1009, 1014 to 1025, 1027 to 1029 of this title, sections 1148a-1 to 1148a-3 of Title 12, and sections 590r to 590x-4 of Title 16, and enacting provisions set out as notes under sections 1282, 1334, 1335, 1441, 1446, 1703, 1911, and 1921 of this title and section 590p of Title 16, and repealing Act Aug. 31, 1954, ch. 1145, 68 Stat. 999, set out as a note under former section 1148a-1 of Title 12], may be cited as the 'Agricultural Act of 1961'."

Section 101 of Pub. L. 87-128 provided that: "This title [enacting sections 1911 to 1913, amending sections 602, 608a, 608c, 608e-1, 1334, 1335, 1336, 1340, and 1782 of this title and section 590p of Title 16, and enacting provisions set out as notes under sections 1334, 1340, 1441, and 1911 of this title and section 590p of Title 16] may be cited as the 'Agricultural Enabling Amendments Act of 1961'."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1912 of this title.

§ 1912. Submission of legislative proposals

If the Secretary of Agriculture, after such consultation and receipt of such advice as provided in section 1911 of this title, determines that additional legislative authority is necessary to develop agricultural programs involving supply adjustments or marketing regulations through the use of marketing orders, marketing quotas or price-support programs, he shall formulate specific recommendations in the form of proposed legislation which shall be submitted to the Congress together with a statement setting forth the purpose and need for such proposed legislation.

(Pub. L. 87-128, title I, § 103, Aug. 8, 1961, 75 Stat. 295.)

§ 1913. Authority of Secretary of Agriculture under other provisions of law and to establish and consult with advisory committees

Nothing in this Act shall be deemed to limit the authority of the Secretary of Agriculture under other provision of law or to establish or consult with advisory committees.

(Pub. L. 87-128, title I, § 104, Aug. 8, 1961, 75 Stat. 295.)

REFERENCES IN TEXT

This Act, referred to in the text, refers to the Agricultural Act of 1961, Pub. L. 87-128. For classification of this Act in the Code, see Short Title note under section 1911 of this title.

CHAPTER 50—AGRICULTURAL CREDIT

Sec.

1921. Congressional findings.

SUBCHAPTER I—REAL ESTATE LOANS

1922. Persons eligible for loans.
1923. Purposes of loans; preferences.
1924. Soil and water conservation, recreational facilities and uses, and rural enterprise loans.
1925. Limitation on amount of loan.
1926. Water and waste facility loans and grants.
(a) Criteria; definitions; limitation on allowable uses of Federal funds; inclusion of interest or other income in gross income on sale of insured loan.
(b) Curtailment or limitation of service prohibited.
(c) Repealed.
(d) Carryover of unused authorizations for appropriations.
1927. Repayment period; interest rate: generally, rural development other than guaranteed loans and guaranteed loans, fees, charges, and escrow payment of taxes and insurance; mortgages, liens, and other security.
1928. Insurance of loans, servicing and purchase of loans; retention of charges out of payments; full faith and credit of United States; incontestability.
1929. Agricultural Credit Insurance Fund.
(a) Revolving fund.
(b) Deposits of funds; investments; purchase of notes.
(c) Notes; form and denominations; maturities; terms and conditions; interest rate; purchase by Treasury; public debt transaction.
(d) Notes and security as part of fund; collection or sale of notes; deposit of net proceeds in fund.
(e) Deposit in fund of portion of charge on outstanding principal obligations; availability of remainder of charge, and merger with appropriations, for administrative expenses.
(f) Utilization of fund.
1929a. Rural Development Insurance Fund
(a) Creation; revolving fund; rural development loans.
(b) Transfer of assets and liabilities.
(c) Credits in the Treasury; investments; notes, purchasing authority of the Secretary.
(d) Notes, issuing authority of the Secretary; use of funds; terms and conditions, form, denominations, maturities, and interest rate of notes; notes, purchasing authority of the Secretary of the Treasury; public debt transactions.

Sec.
(e) Notes and security as part of Insurance Fund; collection and sale of notes; deposit of net proceeds in Insurance Fund.
(f) Deposit of loan service charges in Insurance Fund.
(g) Use of Insurance Fund.
(h) Gross income; interest or other income on insured loans.
1930. Continued availability of appropriated funds for direct real estate loans to farmers and ranchers.
1931. Insured watershed and resource conservation and development loans.
1932. Rural industrialization assistance.
(a) Loans for private business enterprises and pollution abatement and control projects; loan guarantees.
(b) Grants for pollution abatement and control projects; limitations.
(c) Grants for private business enterprises; limitation.
(d) Joint loans or grants for private business enterprises; restrictions; system of certification for expeditious processing of requests for assistance; prior approval of grant or loan; equity investment as condition for loan commitment; issuance of certificates of beneficial ownership of notes.
1933. Guaranteed rural housing loans; Hawaiian home lands.

SUBCHAPTER II—OPERATING LOANS

1941. Persons eligible for loans.
1942. Purposes of loans; grants for pollution abatement and control projects, limitations.
1943. Limitations and prohibitions on loans.
1944. Soil conservation district loans; limitation; purchase of conservation equipment.
1945. Participating loans.
1946. Liability of borrower; interest rate; security; maturity; renewal.
1947. Insured operating loans.

SUBCHAPTER III—EMERGENCY LOANS

1961. Designation of emergency areas; persons eligible for loans.
1962. Purpose and extent of loans.
1963. Limitation of loans to amount certified by county committee.
1964. Liability of borrower; interest rate; maturity; security.
1965. Delegation of authority to State Directors of the Farmers Home Administration to make emergency loans.
1966. Emergency Credit Revolving Fund utilization.
1967. Addition to Emergency Credit Revolving Fund of sums from liquidation of loans; authorization of appropriations.
1968. Insurance of loans.
1969. Repealed.
1970. Eligibility for assistance based on production loss.
1971. Additional emergency loans.

SUBCHAPTER IV—ADMINISTRATIVE PROVISIONS

1981. Farmers Home Administration; appointment and compensation of Administrator; transfer of powers, duties and assets pertaining to agricultural credit; powers of Secretary of Agriculture.
1982. County committees.
(a) Appointment; term; alternates; removal for cause.
(b) Compensation; travel expenses.
(c) Meetings; quorum; procedure; duties; supplies; personnel.

Sec.
1983. Special conditions and limitations on loans.
1984. Taxation.
1985. Security servicing; operation or lease of realty; disposition of surplus property; conveyance of complete interest of United States; easements; condemnations.
1986. Conflicts of interests.
1987. Debt adjustment and credit counseling.
1988. Appropriations.
(a) Authorization.
(b) Notes; form and denominations; maturities; terms and conditions; interest rate; purchase by Treasury; public debt transaction.
(c) Farmers Home Administration direct loan account; deposits; liabilities; obligations; expenditures; net expenditure basis of budgeting.
(d) Sale of notes and mortgages.
(e) Distribution of real estate loans among States.
1989. Rules and regulations; delegation of powers.
1990. Transfer of lands to Secretary.
1991. Definitions.
1992. Loan limitations.
1993. Testimony before Congressional Committees.

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in section 940 of this title; title 12 section 371; title 15 section 636; title 40 App. section 214; title 42 section 2985c.

§ 1921. Congressional findings

The Congress finds that the statutory authority of the Secretary of Agriculture, hereinafter referred to in this chapter as the "Secretary," for making and insuring loans to farmers and ranchers should be revised and consolidated to provide for more effective credit services to farmers.

(Pub. L. 87-128, title III, § 301(b), Aug. 8, 1961, 75 Stat. 307.)

REFERENCES IN TEXT

In the original "this chapter", referred to in text, read "this title", meaning the Consolidated Farm and Rural Development Act, title III of Pub. L. 87-128, as amended. For classification of this Title in the Code, see Short Title note under this section.

CODIFICATION

Section is comprised of subsec. (b) of section 301 of Pub. L. 87-128. Subsec. (a) of such section 301 contains citation of title III of Pub. L. 87-128 and is set out as a note under this section.

EFFECTIVE DATE

Former section 300.1 of Title 6, Code of Federal Regulations, promulgated on Oct. 15, 1961, by the Administrator of the Farmers Home Administration, published in 26 F.R. 10031, provided: "The Consolidated Farmers Home Administration Act of 1961 (7 U.S.C. 1921) [this chapter], is hereby made effective on October 15, 1961, except (a) as to its authorizations to make and sell insured loans with 4½ percent yield to the lender and a three-year repurchase agreement which was made effective by regulations issued on September 13, 1961 (26 F.R. 9307), pursuant to assignment of functions contained in 26 F.R. 7888, and (b) that the provisions of Title IV of the Bankhead-Jones Farm Tenant Act which requires mineral reservations in lands disposed of under Title III of that Act [sections 1010 to 1012 and 1013a of this title] shall not become effective until December 7, 1961." See section 341(a) of Pub. L. 87-128, set out as a note under this section.

SHORT TITLE

Section 301(a) of title III of Pub. L. 87-128, as amended by Pub. L. 92-419, title I, § 101, Aug. 30, 1972, 86 Stat. 657, provided that: "This title [title III of Pub. L. 87-128, enacting sections 1013a, 1921 to 1933, 1941 to 1947, 1961 to 1968, former section 1969, sections 1970, 1971, and 1981 to 1993 of this title, amending sections 1924 to 1927, 1929, 1941 to 1943, 1981, 1983, 1985, and 1991 of this title, repealing sections 1001 to 1005d, 1006c to 1006e, 1007, 1008, 1009, 1014 to 1025, 1027 to 1029 of this title, sections 1148a-1 to 1148a-3 of Title 12, and sections 590r to 590x-4 of Title 16, and enacting provisions set out as a note under this section] may be cited as the 'Consolidated Farm and Rural Development Act'."

REFERENCES IN OTHER LAWS TO BANKHEAD-JONES FARM TENANT ACT OR WATER FACILITIES ACT; REPEALS; SAVINGS AND SEPARATE PROVISIONS

Section 341 of Pub. L. 87-128 provided that:

"(a) Reference to any provisions of the Bankhead-Jones Farm Tenant Act [see section 1000 of this title] or the Act of August 28, 1937 (50 Stat. 869), as amended, superseded by any provision of this title [this chapter] shall be construed as referring to the appropriate provision of this title [this chapter]. Titles I, II, and IV of the Bankhead-Jones Farm Tenant Act, as amended, and the Act of August 28, 1937 (50 Stat. 869), as amended, the Act of April 6, 1949 (63 Stat. 43), as amended, and the Act of August 31, 1954 (68 Stat. 999), as amended, are hereby repealed effective one hundred and twenty days after enactment hereof [Aug. 8, 1961], or such earlier date as the Provisions of this title [this chapter] are made effective by the Secretary's regulations except that the repeal of section 2(c) of the Act of April 6, 1949, shall not be effective prior to January 1, 1962. The foregoing provisions shall not have the effect of repealing the amendments to section 24, chapter 6 of the Federal Reserve Act [section 371 of Title 12], as amended, section 5200 of the Revised Statutes [section 84 of Title 12], section 35 of chapter III of the Act approved June 19, 1934 (D.C. Code, title 35, section 535), enacted by section 15 of the Bankhead-Jones Farm Tenant Act, as amended, and by section 10(f) of the Act of August 28, 1937 (50 Stat. 869), as amended.

"(b) The repeal of any provision of law by this title [this chapter] shall not—

"(1) affect the validity of any action taken or obligation entered into pursuant to the authority of any of said Acts, or

"(2) prejudice the application of any person with respect to receiving assistance under the provisions of this title [this chapter], solely because such person is obligated to the Secretary under authorization contained in any such repealed provision.

"(c) If any provision of this title [this chapter] or the application thereof to any person or circumstances is held invalid, the remainder of the title [this chapter] and the application of such provision to other persons or circumstances shall not be affected thereby."

SUBCHAPTER I—REAL ESTATE LOANS

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 1962, 1964, 1983, 1988 of this title.

§ 1922. Persons eligible for loans

The Secretary is authorized to make and insure loans under this subchapter to farmers and ranchers in the United States and in Puerto Rico and the Virgin Islands who (1) are citizens of the United States, (2) have a farm background, except with respect to veterans as defined in section 1983(e) of this title, a farm background shall not be required as a condition precedent to obtaining any loan, and either training or farming experience which the Secretary determines is sufficient to assure reasonable prospects of success in the proposed farming operations, (3) are or will become owner-operators of not larger than family farms, and (4) are unable to obtain sufficient credit elsewhere to finance their actual needs at reasonable rates and terms, taking into consideration prevailing private and cooperative rates and terms in the community in or near which the applicant resides for loans for similar purposes and periods of time.

(Pub. L. 87-128, title III, § 302, Aug. 8, 1961, 75 Stat. 307; Pub. L. 91-620, § 2, Dec. 31, 1970, 84 Stat. 1862.)

AMENDMENTS

1970—Pub. L. 91-620 provided that with respect to veterans as defined in section 1983(e) of this title, a farm background shall not be required as a condition precedent to obtaining any loan.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1924, 1925 of this title.

§ 1923. Purposes of loans; preferences

Loans may be made or insured under this subchapter for (1) acquiring, enlarging, or improving farms, including farm buildings, land and water development, use and conservation, (2) recreational uses and facilities, (3) enterprises needed to supplement farm income, (4) refinancing existing indebtedness, and (5) loan closing costs. In making or insuring loans for farm purchase, the Secretary shall give preference to persons who are married or have dependent families and, wherever practicable, to persons who are able to make initial downpayments, or who are owners of livestock and farm implements necessary successfully to carry on farming operations.

(Pub. L. 87-128, title III, § 303, Aug. 8, 1961, 75 Stat. 307; Pub. L. 87-703, title IV, § 401(1), Sept. 27, 1962, 76 Stat. 631; Pub. L. 90-488, § 1, Aug. 15, 1968, 82 Stat. 770.)

AMENDMENTS

1968—Pub. L. 90-488 designated existing provisions as cls. (1), (2), (4), (5), and added cl. (3).

1962—Pub. L. 87-703 authorized loans to be made or insured for recreational uses and facilities.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1925 of this title.

§ 1924. Soil and water conservation, recreational facilities and uses, and rural enterprise loans

(a) Loans may also be made or insured under this subchapter to any farmowners or tenants without regard to the requirements of section 1922(1), (2), and (3) of this title for the purposes only of land and water development, use and conservation, not including recreational uses and facilities, and without regard to the requirements of section 1922(2) and (3) of this title, to individual farmowners or tenants to finance outdoor recreational enterprises or to convert to recreational uses their farming or ranching operations, including those heretofore financed under this chapter.

(b) Loans may also be made or insured under this subchapter to residents of rural areas without regard to the requirements of clauses (2) and (3) of section 1922 of this title to acquire or establish in rural areas small business enterprises to provide such residents with essential income.

(Pub. L. 87-128, title III, § 304, Aug. 8, 1961, 75 Stat. 308; Pub. L. 90-488, § 2, Aug. 15, 1968, 82 Stat. 770; Pub. L. 92-419, title I, § 102, Aug. 30, 1972, 86 Stat. 657.)

REFERENCES IN TEXT

In the original "this chapter", referred to in subsec. (a), read "this title", meaning the Consolidated Farm and Rural Development Act, title III of Pub. L. 87-128, as amended. For classification of this title in the Code, see Short Title note under section 1921 of this title.

AMENDMENTS

1972—Pub. L. 92-419 designated existing provisions as subsec. (a) and struck out item (a) and (b) designations therein appearing before "to any farmowner" and "without regard to", respectively, and added subsec. (b).

1968—Pub. L. 90-488 designated existing provisions as cl. (a), excluded therefrom recreational uses and facilities, and added cl. (b).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1925, 1926, 1927, 1929a, 1932, 1992 of this title.

§ 1925. Limitation on amount of loan

The Secretary shall make or insure no loan under sections 1922, 1923, and 1924 of this title which would cause (a) the unpaid indebtedness against the farm or other security at the time the loan is made to exceed $225,000 or the value of the farm or other security, (b) the loans under such sections to any one borrower to exceed $100,000, or (c) the loan to exceed the amount certified by the county committee. In determining the value of the farm, the Secretary shall consider appraisals made by competent appraisers under rules established by the Secretary.

(Pub. L. 87-128, title III, § 305, Aug. 8, 1961, 75 Stat. 308; Pub. L. 91-620, § 1, Dec. 31, 1970, 84 Stat. 1862; Pub. L. 92-419, title I, § 103, Aug. 30, 1972, 86 Stat. 658; Pub. L. 91-524, title VIII, § 807, as added Pub. L. 93-86, § 1(27)(B), Aug. 10, 1973, 87 Stat. 237.)

AMENDMENTS

1973—Pub. L. 91-524, § 807, as added by Pub. L. 93-86 substituted "$225,000" for "$100,000" in cl. (a), added cl. (b), and redesignated former cl. (b) as (c).

1972—Pub. L. 92-419 struck out "normal" from phrase "normal value" in first and second sentences, and last sentence reading "Such appraisals shall take into consideration both the normal agricultural value and the normal market value of the farm".

1970—Pub. L. 91-620 substituted "$100,000" for "$60,000".

§ 1926. Water and waste facility loans and grants

(a) Criteria; definitions; limitation on allowable uses of Federal funds; inclusion of interest or other income in gross income on sale of insured loan

(1) The Secretary is also authorized to make or insure loans to associations, including corporations not operated for profit, Indian tribes on Federal and State reservations and other federally recognized Indian tribes, and public and quasi-public agencies to provide for the application or establishment of soil conservation practices, shifts in land use, the conservation, development, use, and control of water, and the installation or improvement of drainage or waste disposal facilities, recreational developments, and essential community facilities including necessary related equipment, all primarily serving farmers, ranchers, farm tenants, farm laborers, and other rural residents, and to furnish financial assistance or other aid in planning projects for such purposes. When any loan made for a purpose specified in this paragraph is sold out of the Agricultural Credit Insurance Fund as an insured loan, the interest or other income thereon paid to an insured holder shall be included in gross income for purposes of chapter 1 of the Internal Revenue Code of 1954 [26 U.S.C. 1 et seq.].

(2) The Secretary is authorized to make grants aggregating not to exceed $300,000,000 in any fiscal year to such associations to finance specific projects for works for the development, storage, treatment, purification, or distribution of water or the collection, treatment, or disposal of waste in rural areas. The amount of any grant made under the authority of this paragraph shall not exceed 50 per centum of the development cost of the project to serve the area which the association determines can be feasibly served by the facility and to adequately serve the reasonably foreseeable growth needs of the area.

(3) No grant shall be made under paragraph (2) of this subsection in connection with any project unless the Secretary determines that the project (i) will serve a rural area which, if such project is carried out, is not likely to decline in population below that for which the project was designed, (ii) is designed and constructed so that adequate capacity will or can be made available to serve the present population of the area to the extent feasible and to serve the reasonably foreseeable growth needs of the area, and (iii) is necessary for an orderly community development consistent with a comprehensive community water, waste disposal, or other development plan of the rural area and not inconsistent with any planned development provided in any State, multi-jurisdictional, county, or municipal plan approved by competent authority for the area in which the rural community is located, and the Secretary shall require the submission of all applications for financial assistance under this section to the multijurisdictional substate areawide general purpose planning and development agency that has been officially designated as a clearinghouse agency under Office of Management and Budget Circular A-95 and to the county or municipal government having jurisdiction over the area in which the proposed project is to be located for review and comment within a designated period of time not to exceed 30 days concerning among other considerations, the effect of the project upon the areawide goals and plans of such agency or government. No loan under this section shall be made that is inconsistent with any multijurisdictional planning and development district areawide plan of such

agency. The Secretary is authorized to reimburse such agency or government for the cost of making the required review. Until October 1, 1973, the Secretary may make grants prior to the completion of the comprehensive plan, if the preparation of such plan has been undertaken for the area.

(4)(A) The term "development cost" means the cost of construction of a facility and the land, easements, and rights-of-way, and water rights necessary to the construction and operation of the facility.

(B) The term "project" shall include facilities providing central service or facilities serving individual properties, or both.

(5) Repealed. Pub. L. 92-419, title I, § 110, Aug. 30, 1972, 86 Stat. 659.

(6) The Secretary may make grants aggregating not to exceed $30,000,000 in any fiscal year to public bodies or such other agencies as the Secretary may determine having authority to prepare comprehensive plans for the development of water or waste disposal systems in rural areas which do not have funds available for immediate undertaking of the preparation of such plan.

(7) As used in this chapter, the terms "rural" and "rural area" shall not include any area in any city or town which has a population in excess of ten thousand inhabitants, except that for purposes of loans and grants for private business enterprises under sections 1924(b), 1932 and 1942(b), (c), and (d) of this title the terms "rural" and "rural area" may include all territory of a State, the Commonwealth of Puerto Rico and the Virgin Islands, that is not within the outer boundary of any city having a population of fifty thousand or more and its immediately adjacent urbanized and urbanizing areas with a population density of more than one hundred persons per square mile, as determined by the Secretary of Agriculture according to the latest decennial census of the United States: *Provided,* That special consideration for such loans and grants shall be given to areas other than cities having a population of more than twenty-five thousand.

(8) In each instance where the Secretary receives two or more applications for financial assistance for projects that would serve substantially the same group of residents within a single rural area, and one such application is submitted by a city, town, county or other unit of general local government, he shall, in the absence of substantial reasons to the contrary, provide such assistance to such city, town, county or other unit of general local government.

(9) No Federal funds shall be authorized for use unless it be certified by the appropriate State water pollution control agency that the water supply system authorized will not result in pollution of waters of the State in excess of standards established by that agency.

(10) In the case of sewers and waste disposal systems, no Federal funds shall be advanced hereunder unless the appropriate State water pollution control agency shall certify that the effluent therefrom shall conform with appropriate State and Federal water pollution control standards when and where established.

(11) The Secretary may make grants, not to exceed $10,000,000 annually, to public bodies or such other agencies as he may select to prepare comprehensive plans for rural development or such aspects of rural development as he may specify.

(12) In the making of loans and grants for community waste disposal and water facilities under paragraphs (1) and (2) of this subsection the Secretary shall accord highest priority to the application of any municipality or other public agency (including an Indian tribe on a Federal or State reservation or other federally recognized Indian tribal group) in a rural community having a population not in excess of five thousand five hundred and which, in the case of water facility loans, has a community water supply system, where the Secretary determines that due to unanticipated diminution or deterioration of its water supply, immediate action is needed, or in the case of waste disposal, has a community waste disposal system, where the Secretary determines that due to unanticipated occurrences the system is not adequate to the needs of the community. The Secretary shall utilize the Soil Conservation Service in rendering technical assistance to applicants under this paragraph to the extent he deems appropriate.

(13)(A) The Secretary, under such reasonable rules and conditions as he shall establish, shall make grants to eligible volunteer fire departments for up to 50 per centum of the cost of firefighting equipment needed by such departments but which such departments are unable to purchase through the resources otherwise available to them, and for the cost of the training necessary to enable such departments to use such equipment efficiently.

(B) For the purposes of this subsection, the term "eligible volunteer fire department" means any established volunteer fire department in a rural town, village, or unincorporated area where the population is less than two thousand but greater than two hundred, as reasonably determined by the Secretary.

(b) Curtailment or limitation of service prohibited

The service provided or made available through any such association shall not be curtailed or limited by inclusion of the area served by such association within the boundaries of any municipal corporation or other public body, or by the granting of any private franchise for similar service within such area during the term of such loan; nor shall the happening of any such event be the basis of requiring such association to secure any franchise, license, or permit as a condition to continuing to serve the area served by the association at the time of the occurrence of such event.

(c) Repealed. Pub. L. 91-606, title III, § 302(2), Dec. 31, 1970, 84 Stat. 1759

(d) Carryover of unused authorizations for appropriations

Any amounts appropriated under this section shall remain available until expended, and any amounts authorized for any fiscal year under this section but not appropriated may be appropriated for any succeeding fiscal year.

(Pub. L. 87-128, title III, § 306, Aug. 8, 1961, 75 Stat. 308; Pub. L. 87-703, title IV, § 401(2), Sept. 27, 1962, 76 Stat. 632; Pub. L. 89-240, § 1, Oct. 7, 1965, 79 Stat. 931; Pub. L. 89-769, § 6(b), Nov. 6, 1966, 80 Stat. 1318; Pub. L. 90-488, §§ 3-5, Aug. 15, 1968, 82 Stat. 770; Pub. L. 91-524, title VIII, § 806(a), Nov. 30, 1970, 84 Stat. 1383; Pub. L. 91-606, title III, § 302(2), Dec. 31, 1970, 84 Stat. 1759; Pub. L. 91-617, § 1(a), Dec. 31, 1970, 84 Stat. 1855; Pub. L. 92-419, title I, §§ 104-112, Aug. 30, 1972, 86 Stat. 658, 659; Pub. L. 91-524, title VIII, § 816(c), as added Pub. L. 93-86, § 1(27)(B), Aug. 10, 1973, 87 Stat. 240.)

REFERENCES IN TEXT

In the original "this chapter", referred to in subsec. (a)(7), read "this title", meaning the Consolidated Farm and Rural Development Act, title III of Pub. L. 87-128, as amended. For classification of this title in the Code, see Short Title note under section 1921 of this title.

AMENDMENTS

1973—Subsec. (a)(13). Pub. L. 91-524, title VIII, § 816(c), as added by Pub. L. 93-86 added subsec. (a)(13).

1972—Subsec. (a)(1). Pub. L. 92-419, § 104(1), (2), authorized loans to Indian tribes on Federal and State reservations and other federally recognized Indian tribes and included as an allowable use provision for essential community facilities including necessary related equipment, respectively.

Subsec. (a)(2). Pub. L. 92-419, § 105, substituted "$300,000,000" for "$100,000,000".

Subsec. (a)(3). Pub. L. 92-419, §§ 106, 107, substituted "project" for "facility" where first appearing; in item (i), substituted "project" for "facility" and inserted in such text ", if such project is carried out,"; in item (ii), substituted "will or can be" for "will be or can be"; substituted "and (iii)" for "or (iii)" and in such item (iii), substituted "an orderly community development consistent with a comprehensive community water, waste disposal, or other development plan" and "development provided in any State, multijurisdictional, county, or municipal plan approved by competent authority" for "orderly community development consistent with a comprehensive community water or sewer development plan" and "development under State, county, or municipal plans approved as official plans by competent authority", substituted "Secretary shall require the submission of all applications for financial assistance under this section to the multijurisdictional substate areawide general purpose planning and development agency that has been officially designated as a clearinghouse agency under Office of Management and Budget Circular A-95 and to the county or municipal government having jurisdiction over the area in which the proposed project is to be located for review and comment within a designated period of time not to exceed 30 days concerning among other considerations, the effect of the project upon the areawide goals and plans of such agency or government" for "Secretary shall establish regulations requiring the submission of all applications for financial assistance under this chapter to the county or municipal government in which the proposed project is to be located for review and comment by such agency within a designated period of time"; prohibited loans inconsistent with multijurisdictional planning and development district areawide plan of the agency; authorized agency or government reimbursement for cost of making the review; and extended authority for making grants prior to completion of the comprehensive plan from Oct. 1, 1971 to Oct. 1, 1973.

Subsec. (a)(5). Pub. L. 92-419, § 110, struck out provisions of former par. (5) which prohibited any loan or grant under subsec. (a) of this section which would cause the unpaid principal indebtedness of any association under this chapter and Act Aug. 28, 1937, as amended (superseded by this chapter), together with amount of any assistance in the form of a grant to exceed $4,000,000 at any one time.

Subsec. (a)(6). Pub. L. 92-419, § 108, substituted "$30,000,000" for "$15,000,000", struck out "official" preceding "comprehensive plans", and substituted "waste disposal systems" for "sewer systems".

Subsec. (a)(7). Pub. L. 92-419, § 109, substituted definition of "rural" and "rural area" as excluding an area in a city or town with a population in excess of ten thousand inhabitants for prior provision for rural areas for purposes of water and waste disposal projects excluding an area in a city or town with a population in excess of 5,500 inhabitants, provided exception provision and special consideration for loans and grants to areas other than cities having a population of more than twenty-five thousand.

Subsecs. (a)(11), (12). Pub. L. 92-419, §§ 111, 112, added pars. (11) and (12).

1970—Subsec. (a)(1). Pub. L. 91-617 required inclusion in gross income of the interest or other income paid to an insured holder when any loan made for a purpose specified in subsec. (a)(1) is sold out of the Agricultural Credit Insurance Fund as an insured loan.

Subsec. (c). Pub. L. 91-606 repealed subsec. (c), added by Pub. L. 89-769, § 6(b), Nov. 6, 1966, 80 Stat. 1318, which related to loans to associations in areas suffering major disasters. See section 4401 et seq. of Title 42, The Public Health and Welfare.

Subsec. (d). Pub. L. 91-524 added subsec. (d).

1968—Subsec. (a). Pub. L. 90-488 substituted "$100,000,000" for "$50,000,000" in par. (2), "October 1, 1971" for "October 1, 1968" in par. (3), and "$15,000,000" for "$5,000,000" in par. (6), respectively.

1966—Subsec. (c). Pub. L. 89-769 added subsec. (c).

1965—Subsec. (a). Pub. L. 89-240 designated existing provisions as par. (1), struck out "including the development of recreational facilities" following "shifts in land use", substituted "drainage or waste disposal facilities" for "drainage facilities", inserted "and recreational developments", deleted provisions which prohibited loans which would cause an association's unpaid principal indebtedness to exceed $500,000, in the case of direct loans and $1,000,000 in the case of insured loans at any one time, and added pars. (2) to (10).

1962—Subsec. (a). Pub. L. 87-703 authorized loans to be made or insured to provide for the application or establishment of shifts in land use including the development of recreational facilities.

EFFECTIVE DATE OF 1970 AMENDMENTS

Section 1(b) of Pub. L. 91-617 provided that: "The amendment made by subsection (a) [to subsec. (a)(1) of this section] shall apply to the insured loans sold out of the Agricultural Credit Insurance Fund after the date of the enactment of this Act [Dec. 31, 1970]."

Repeal of subsec. (c) of this section by Pub. L. 91-606 effective Dec. 31, 1970, see section 304 of Pub. L. 91-606, set out as a note under section 165 of Title 26, Internal Revenue Code.

EFFECTIVE DATE OF 1966 AMENDMENT

Amendment by Pub. L. 89-769 applicable with respect to any major disaster occurring after Oct. 3, 1964, see section 14 of Pub. L. 89-769, set out as a note under section 1855aa of Title 42, The Public Health and Welfare.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1927, 1929, 1929a, 1931, 1983, 1992, 2651 of this title; title 42 sections 3122, 3914, 4519, 5153.

§ 1927. Repayment period; interest rate: generally, rural development other than guaranteed loans and guaranteed loans; fees, charges, and escrow payment of taxes and insurance; mortgages, liens, and other security

(a) The period for repayment of loans under this subchapter shall not exceed forty years. The Secretary shall from time to time establish the interest rate or rates at which loans for various purposes will be made or insured under this subchapter but not in excess of 5 per centum per annum; except that loans (other than loans to public bodies or nonprofit associations (including Indian tribes on Federal and State reservations and other federally recognized Indian tribal groups) for community facilities, or loans of a type authorized by section 1926(a)(1) of this title prior to its amendment by the Rural Development Act of 1972) made or insured under section 1924(b), 1926(a)(1), or 1932 of this title shall—

(1) when made other than as guaranteed loans, bear interest at a rate, prescribed by the Secretary, not less than a rate determined by the Secretary of the Treasury taking into consideration the current average market yield on outstanding marketable obligations of the United States comparable to the average maturities of such loans, adjusted in the judgment of the Secretary of the Treasury to provide for a rate comparable to the rates prevailing in the private market for similar loans and considering the Secretary's insurance of the loans, plus an additional charge, prescribed by the Secretary, to cover the Secretary's losses and cost of administration, which charge shall be deposited in the Rural Development Insurance Fund: *Provided,* That the rate so prescribed shall be adjusted to the nearest one-eighth of 1 per centum; and

(2) when made as guaranteed loans, bear interest at such rate as may be agreed upon by the borrower and the lender.

The borrower shall pay such fees and other charges as the Secretary may require, and borrowers under this chapter shall prepay to the Secretary as escrow agent such taxes and insurance as he may require, on such terms and conditions as he may prescribe.

(b) The Secretary shall take as security for the obligations entered into in connection with loans, mortgages on farms with respect to which such loans are made or such other security as the Secretary may require, and for obligations in connection with loans to associations under section 1926 of this title, shall take liens on the facility or such other security as he may determine to be necessary. Such security instruments may constitute liens running to the United States notwithstanding the fact that the notes may be held by lenders other than the United States.

(Pub. L. 87-128, title III, § 307, Aug. 8, 1961, 75 Stat. 308; Pub. L. 92-419, title I, §§ 113, 114, 128(b), Aug. 30, 1972, 86 Stat. 660, 666.)

REFERENCES IN TEXT

For statutory changes to section 1926(a)(1) of this title by the Rural Development Act of 1972, referred to in subsec. (a), see 1972 Amendment note for section 104 of Pub. L. 92-419, set out under section 1926 of this title. For classification of the Rural Development Act of 1972 in the Code, see Short Title note under section 1929a of this title.

In the original "this chapter", referred to in subsec. (a), read "this title", meaning the Consolidated Farm and Rural Development Act, title III of Pub. L. 87-128, as amended. For classification of this Title in the Code, see Short Title note under section 1921 of this title.

AMENDMENTS

1972—Subsec. (a). Pub. L. 92-419, §§ 113, 114, prescribed interest rates on rural development other than guaranteed and guaranteed loans and escrow payment of taxes and insurance, respectively.

Subsec. (b). Pub. L. 92-419, § 128(b), substituted "may" for "shall" in second sentence.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1929, 1931, 1947, 1968 of this title; title 25 section 492.

§ 1928. Insurance of loans; servicing and purchase of loans; retention of charges out of payments; full faith and credit of United States; incontestability

Loans under this subchapter may be insured by the Secretary whenever funds are advanced or a loan is purchased by a lender other than the United States. In connection with insurance of loans, the Secretary—

(a) is authorized to make agreements with respect to the servicing of loans insured hereunder and to purchase such loans on such terms and conditions as he may prescribe; and

(b) may retain out of payments by the borrower a charge at a rate specified in the insurance agreement applicable to the loan.

Any contract of insurance executed by the Secretary under this subchapter shall be an obligation supported by the full faith and credit of the United States and incontestable except for fraud or misrepresentation of which the holder has actual knowledge.

(Pub. L. 87-128, title III, § 308, Aug. 8, 1961, 75 Stat. 308; Pub. L. 87-798, Oct. 11, 1962, 76 Stat. 903; Pub. L. 89-240, § 2(a), Oct. 7, 1965, 79 Stat. 932; Pub. L. 90-488, § 6, Aug. 15, 1968, 82 Stat. 770; Pub. L. 92-133, Oct. 5, 1971, 85 Stat. 364.)

AMENDMENTS

1971—Pub. L. 92-133 eliminated October 1, 1971, as time limitation for insurance of loans.

1968—Pub. L. 90-488 authorized insurance of loans until Oct. 1, 1971, without the $450,000,000 limitation on aggregate amount in any one year.

1965—Pub. L. 89-240 substituted "$450,000,000" for "$200,000,000", "may retain" for "shall retain", and "specified in the insurance agreement applicable to the loan" for "determined by the Secretary from time to time equivalent to not less than one-half of 1 per centum per annum on the principal unpaid balance of the loan", and struck out "except that no agreement shall provide for purchase by the Secretary at a date sooner than three years from the date of the note" following "he may prescribe".

1962—Pub. L. 87-798 increased the aggregate amount of loans that may be insured in any one year from $150,000,000 to $200,000,000.

LOANS TO INDIANS

Authority of the Secretary of Agriculture to make loans to Indian tribes and tribal corporations to acquire land within reservations, see sections 488 to 492 of Title 25, Indians.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1929, 1929a, 1931, 1947, 1968 of this title; title 25 section 488; title 42 section 1485.

§ 1929. Agricultural Credit Insurance Fund

(a) Revolving fund

The fund established pursuant to section 11(a) of the Bankhead-Jones Farm Tenant Act, as amended, shall hereafter be called the Agricultural Credit Insurance Fund and is hereinafter in this subchapter referred to as the "fund". The fund shall remain available as a revolving fund for the discharge of the obligations of the Secretary under agreements insuring loans under this subchapter and loans and mortgages insured under prior authority.

(b) Deposits of funds; investments; purchase of notes

Moneys in the fund not needed for current operations shall be deposited in the Treasury of the United States to the credit of the fund or invested in direct obligations of the United States or obligations guaranteed by the United States. The Secretary may purchase with money in the fund any notes issued by the Secretary to the Secretary of the Treasury for the purpose of obtaining money for the fund.

(c) Notes; form and denominations; maturities; terms and conditions; interest rate; purchase by Treasury; public debt transaction

The Secretary is authorized to make and issue notes to the Secretary of the Treasury for the purpose of obtaining funds necessary for discharging obligations under this section and for authorized expenditures out of the fund. Such notes shall be in such form and denominations and have such maturities and be subject to such terms and conditions as may be prescribed by the Secretary with the approval of the Secretary of the Treasury. Such notes shall bear interest at a rate fixed by the Secretary of the Treasury, taking into consideration the current average market yield of outstanding marketable obligations of the United States having maturities comparable to the notes issued by the Secretary under this subchapter. The Secretary of the Treasury is authorized and directed to purchase any notes of the Secretary issued hereunder, and, for that purpose, the Secretary of the Treasury is authorized to use as a public debt transaction the proceeds from the sale of any securities issued under the Second Liberty Bond Act, as amended, and the purposes for which such securities may be issued under such Act, as amended, are extended to include the purchase of notes issued by the Secretary. All redemptions, purchases, and sales by the Secretary of the Treasury of such notes shall be treated as public debt transactions of the United States.

(d) Notes and security as part of fund; collection or sale of notes; deposit of net proceeds in fund

Notes and security acquired by the Secretary in connection with loans insured under this subchapter and under prior authority shall become a part of the fund. Notes may be held in the fund and collected in accordance with their terms or may be sold by the Secretary with or without agreements for insurance thereof at the balance due thereon, or on such other basis as the Secretary may determine from time to time. All net proceeds from such collections, including sales of notes or property, shall be deposited in and become a part of the fund.

(e) Deposit in fund of portion of charge on outstanding principal obligations; availability of remainder of charge, and merger with appropriations, for administrative expenses

The Secretary shall deposit in the fund all or a portion, not to exceed one-half of 1 per centum of the unpaid principal balance of the loan, of any charge collected in connection with the insurance of loans; and any remainder of any such charge shall be available for administrative expenses of the Farmers Home Administration, to be transferred annually and become merged with any appropriation for administrative expenses.

(f) Utilization of fund

The Secretary may utilize the fund—

(1) to make loans which could be insured under this subchapter whenever the Secretary has reasonable assurance that they can be sold without undue delay, and may sell and insure such loans. The aggregate of the principal of such loans made and not disposed of shall not exceed $500,000,000 at any one time;

(2) to pay amounts to which the holder of the note is entitled on loans heretofore or hereafter insured accruing between the date of any payments made by the borrower and the date of transmittal of any such payments to the lender. In the discretion of the Secretary, payments other than final payments need not be remitted to the holder until due or until the next agreed annual or semiannual remittance date;

(3) to pay to the holder of the notes any defaulted installment or, upon assignment of the note to the Secretary at the Secretary's request, the entire balance due on the loan;

(4) to purchase notes in accordance with agreements previously entered into; and

(5) to pay for contract services, taxes, insurance, prior liens, expenses necessary to make fiscal adjustments in connection with the application and transmittal of collections and other expenses and advances authorized in connection with insured loans, including the difference between interest payable by borrowers and interest to which insured lenders or insured holders are entitled under agreements with the Secretary included in contracts of insurance.

(g) Transfer of funds from Farmers Home Administration direct loan account and Emergency Credit Revolving Fund; abolition of such account and fund; payments from Agricultural Credit Insurance Fund; interest

(1) The assets and liabilities of, and authorizations applicable to, the Farmers Home Administration direct loan account created by section 1988(c) of this title and the Emergency Credit Revolving Fund referred to in section 1966 of this title are hereby transferred to the fund, and such account and such revolving fund are hereby abolished. Such assets and their proceeds, including loans made out of the fund pursuant to this section, shall be subject to the

provisions of this section, section 1928, the last sentence of section 1926(a)(1), and the last sentence of section 1927 of this title.

(2) From time to time, and at least at the close of each fiscal year, the Secretary shall pay from the fund into the Treasury as miscellaneous receipts interest on the value as determined by the Secretary, with the approval of the Comptroller General, of the Government's equity transferred to the fund pursuant to the first sentence of this subsection plus the cumulative amount of appropriations made available after enactment of this provision as capital and for administration of the programs financed from the fund, less the average undisbursed cash balance in the fund during the year. The rate of such interest shall be determined by the Secretary of the Treasury, taking into consideration the current average yield on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the average maturities of loans made or insured from the fund, adjusted to the nearest one-eighth of 1 per centum. Interest payments may be deferred with the approval of the Secretary of the Treasury, but any interest payments so deferred shall themselves bear interest. If at any time the Secretary determines that moneys in the fund exceed present and any reasonably prospective future requirements of the fund, such excess may be transferred to the general fund of the Treasury.

(h) Guaranteed loans

The Secretary may provide financial assistance to borrowers for purposes provided in this chapter by guaranteeing loans made by any Federal or State chartered bank, savings and loan association, cooperative lending agency, or other legally organized lending agency.

(Pub. L. 87-128, title III, § 309, Aug. 8, 1961, 75 Stat. 309; Pub. L. 87-703, title IV, § 401(3), Sept. 27, 1962, 76 Stat. 632; Pub. L. 89-240, § 2(b), (c), Oct. 7, 1965, 79 Stat. 932; Pub. L. 89-633, Oct. 8, 1966, 80 Stat. 879; Pub. L. 90-488, § 7, Aug. 15, 1968, 82 Stat. 771; Pub. L. 92-419, title I, § 115, Aug. 30, 1972, 86 Stat. 660.)

REFERENCES IN TEXT

Section 11(a) of the Bankhead-Jones Farm Tenant Act, as amended, referred to in subsec. (a), refers to section 11(a) of act July 22, 1937, ch. 517, title I, as added Aug. 14, 1946, ch. 964, § 5, 60 Stat. 1072, which was formerly classified to section 1005a of this title and was repealed by section 341(a) of Pub. L. 87-128.

The Second Liberty Bond Act, as amended, referred to in subsec. (c), is Act Sept. 24, 1917, c. 56, 40 Stat. 288, as amended. For classification of this Act to the Code, see References in Text note set out under section 774 of Title 31, Money and Finance, and Tables volume.

In the original "this chapter", referred to in subsec. (h), read "this title", meaning the Consolidated Farm and Rural Development Act, Title III of Pub. L. 87-128, as amended. For classification of this Title in the Code, see Short Title note under section 1921 of this title.

AMENDMENTS

1972—Subsec. (f)(1). Pub. L. 92-419, § 115(a)(1), substituted "$500,000,000" for "$100,000,000".

Subsec. (f)(2). Pub. L. 92-419, § 115(a)(2), substituted "amounts" for "the interest" and "payments" for "prepayments" in three instances and inserted after "until due" the words "or until the next agreed annual or semi-annual remittance date".

Subsec. (f)(5). Pub. L. 92-419, § 115(a)(3), (4), substituted "connection with insured loans, including the difference between interest payable to borrowers and interest to which insured lenders or insured holders are entitled under agreements with the Secretary included in contracts of insurance" for "section 1985(a) of this title in connection with insured loans," and provided payment for contract services.

Subsecs. (g), (h). Pub. L. 92-419, § 115(b), added subsecs. (g) and (h).

1968—Subsec. (f)(1). Pub. L. 90-488 increased from $50,000,000 to $100,000,000 the aggregate amount of loans to be sold and insured and undisposed of at any one time.

1966—Subsec. (f)(2). Pub. L. 89-633 substituted "until due" for "until the due date of the annual installment".

1965—Subsec. (e). Pub. L. 89-240, § 2(b), substituted "all or a portion, not to exceed one-half of 1 per centum of the unpaid principal balance of the loan of any charge collected in connection with the insurance of loans; and any remainder of any such charge" for "such portion of the charge collected in connection with the insurance of loans at least equal to a rate of one-half of 1 per centum per annum on the outstanding principal obligations and the remainder of such charge".

Subsec. (f)(1). Pub. L. 89-240, § 2(c), substituted "$50,000,000" for "$25,000,000".

1962—Subsec. (f)(1). Pub. L. 87-703 increased from $10,000,000 to $25,000,000 the aggregate amount of loans to be sold and insured and undisposed of at any one time.

LOANS TO INDIANS

Authority of the Secretary of Agriculture to make loans to Indian tribes and tribal corporations to acquire land within reservations, see sections 488 to 492 of Title 25, Indians.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1929a, 1931, 1947, 1968 of this title; title 25 section 488; title 42 sections 1485, 1487.

§ 1929a. Rural Development Insurance Fund

(a) Creation; revolving fund; rural development loans

There is hereby created the Rural Development Insurance Fund (hereinafter in this section referred to as the "Insurance Fund") which shall be used by the Secretary as a revolving fund for the discharge of the obligations of the Secretary under contracts guaranteeing or insuring rural development loans. For the purpose of this section "rural development loans" shall be those provided for by sections 1924(b), 1926(a)(1), 1932, and 1942(b) of this title, except loans (other than for water systems and waste disposal facilities) of a type authorized by section 1926(a)(1) of this title prior to its amendment by the Rural Development Act of 1972.

(b) Transfer of assets and liabilities

The assets and liabilities of the Agricultural Credit Insurance Fund referred to in section 1929(a) of this title applicable to loans for water systems and waste disposal facilities under section 1926(a)(1) of this title are hereby transferred to the Insurance Fund. Such assets (including the proceeds thereof) and liabilities and rural development loans guaranteed or insured pursuant to this chapter shall be subject to the provisions of this section and section 1928 of this title.

(c) Credits in the Treasury; investments; notes, purchasing authority of the Secretary

Moneys in the Insurance Fund not needed for current operations shall be deposited in the Treasury of the United States to the credit of the Insurance Fund or invested in direct obligations of the United States or obligations guaranteed by the United States. The Secretary may purchase with money in the Insurance Fund any notes issued by the Secretary to the Secretary of the Treasury for the purpose of obtaining money for the Insurance Fund.

(d) Notes, issuing authority of the Secretary; use of funds; terms and conditions, form, denominations, maturities, and interest rate of notes; notes, purchasing authority of the Secretary of the Treasury; public debt transactions

The Secretary is authorized to make and issue notes to the Secretary of the Treasury for the purpose of obtaining funds necessary for discharging obligations under this section and for making loans, advances, and authorized expenditures out of the Insurance Fund. Such notes shall be in such form and denominations and have such maturities and be subject to such terms and conditions as may be prescribed by the Secretary with the approval of the Secretary of the Treasury. Such notes shall bear interest at a rate fixed by the Secretary of the Treasury, taking into consideration the current average market yield of outstanding marketable obligations of the United States having maturities comparable to the average maturities of rural development loans made, guaranteed, or insured under this chapter. The Secretary of the Treasury is authorized and directed to purchase any notes of the Secretary issued hereunder, and, for that purpose, the Secretary of the Treasury is authorized to use as a public debt transaction the proceeds from the sale of any securities issued under the Second Liberty Bond Act, as amended, and the purposes for which such securities may be issued under such Act, as amended, are extended to include the purchase of notes issued by the Secretary hereunder. All redemptions, purchases, and sales by the Secretary of the Treasury of such notes shall be treated as public debt transactions of the United States.

(e) Notes and security as part of Insurance Fund; collection and sale of notes; deposit of net proceeds in Insurance Fund

Notes and security acquired by the Secretary in connection with rural development loans made, guaranteed, or insured under this chapter or transferred by subsection (b) of this section shall become a part of the Insurance Fund. Notes may be held in the Insurance Fund and collected in accordance with their terms or may be sold by the Secretary with or without agreements for insurance thereof at the balance due thereon, or on such other basis as the Secretary may determine from time to time. All net proceeds from such collections, including sales of notes or property, shall be deposited in and become a part of the Insurance Fund.

(f) Deposit of loan service charges in Insurance Fund

The Secretary shall deposit in the Insurance Fund any charges collected for loan services provided by the Secretary as well as charges assessed for losses and costs of administration in connection with making, guaranteeing, or insuring rural development loans under this chapter.

(g) Use of Insurance Fund

The Secretary may utilize the Insurance Fund—

(1) to make rural development loans which could be insured under this chapter whenever he has a reasonable assurance that they can be sold without undue delay, and he may sell and insure such loans;

(2) to pay amounts to which the holder of insured notes is entitled on loans heretofore or hereafter insured accruing between the date of any payments by the borrower and the date of transmittal of any such payments to the holder. In the discretion of the Secretary, payments other than final payments need not be remitted to the holder until due or until the next agreed annual or semiannual remittance date;

(3) to pay to the holder of insured notes any defaulted installment, or upon assignment of the note to the Secretary at the Secretary's request, the entire balance due on the loan;

(4) to purchase notes in accordance with contracts of insurance heretofore or hereafter entered into by the Secretary;

(5) to make payments in compliance with the Secretary's obligations under contracts of guarantee entered into by him;

(6) to pay taxes, insurance, prior liens, expenses necessary to make fiscal adjustments in connection with the application and transmittal of collections or necessary to obtain credit reports on applicants or borrowers, expenses for necessary services, including construction inspections, commercial appraisals, loan servicing, consulting business advisory or other commercial and technical services, and other program services, and other expenses and advances authorized in section 1985(a) of this title in connection with insured loans. Such items may be paid in connection with guaranteed loans after or in connection with acquisition by the Secretary of such loans or security therefor after default, to an extent determined by the Secretary to be necessary to protect the interest of the Government, or in connection with grants and any other activity authorized in this chapter;

(7) to pay the difference between interest payments by borrowers and interest to which holders of insured notes are entitled under contracts of insurance heretofore or hereafter entered into by the Secretary; and

(8) to pay the Secretary's costs of administration of the rural development loan program, including costs of the Secretary incidental to guaranteeing rural development loans under this chapter.

(h) Gross income; interest or other income on insured loans

When any loan is sold out of the Insurance Fund as an insured loan, the interest or other income thereon paid to an insured holder shall be included in gross income for purposes of chapter 1 of the Internal Revenue Code of 1954 [26 U.S.C. 1 et seq.].

(Pub. L. 87-128, title III, § 309A, as added Pub. L. 92-419, title I, § 116, Aug. 30, 1972, 86 Stat. 661.)

REFERENCES IN TEXT

For statutory changes to section 1926(a)(1) of this title by the Rural Development Act of 1972, referred to in subsec. (a), see 1972 Amendment note for section 104 of Pub. L. 92-419, set out under section 1926 of this title. For classification of the Rural Development Act of 1972 in the Code, see Short Title note under this section.

In the original "this chapter", referred to in subsecs. (b), (d), (e), (f), (g)(1), (g)(6), and (g)(8), read "this title", meaning the Consolidated Farm and Rural Development Act, Title III of Pub. L. 87-128, as amended. For classification of this Title in the Code, see Short Title note under section 1921 of this title.

The Second Liberty Bond Act, as amended, referred to in subsec. (d), is Act Sept. 24, 1917, c. 56, 40 Stat. 288, as amended. For classification of this Act to the Code, see References in Text note set out under section 774 of Title 31, Money and Finance, and Tables volume.

SHORT TITLE

Section 1 of Pub. L. 92-419 provided: "That this Act [which enacted this section and sections 1010a, 1931 to 1933, 1947, 1992, 2204a, 2212a, 2651 to 2654, and 2661 to 2668 of this title; amended sections 1006a, 1011, 1924 to 1927, 1929, 1941 to 1943, 1981, 1983, 1985, 1991, 2201, and 2204 of this title, section 5315 of Title 5, Government Organization and Employees, sections 590g, 590h, 590o, and 1001 to 1005 of Title 16, Conservation, and section 3122 of Title 42, The Public Health and Welfare, and amended provision set out as a note under section 1921 of this title] may be cited as the 'Rural Development Act of 1972'."

§ 1930. Continued availability of appropriated funds for direct real estate loans to farmers and ranchers

Funds appropriated for the purpose of making direct real estate loans to farmers and ranchers under this subchapter shall remain available until expended.

(Pub. L. 87-128, title III, § 310, as added Pub. L. 91-524, title VIII, § 806(b), Nov. 30, 1970, 84 Stat. 1383.)

§ 1931. Insured watershed and resource conservation and development loans

Loans meeting the requirements of the Watershed Protection and Flood Prevention Act [16 U.S.C. 1001 et seq.] or title III of the Bankhead-Jones Farm Tenant Act [7 U.S.C. 1010 et seq.] may be insured, or made to be sold and insured, in accordance with and subject to sections 1928 and 1929, the last sentence of section 1926(a)(1), and the last sentence of section 1927 of this title.

(Pub. L. 87-128, title III, § 310A, as added Pub. L. 92-419, title I, § 117, Aug. 30, 1972, 86 Stat. 663.)

REFERENCES IN TEXT

The Watershed Protection and Flood Prevention Act, referred to in text, is act Aug. 4, 1954, ch. 656, 68 Stat. 666, and is classified principally to chapter 18 (§ 1001 et seq. of Title 16, Conservation. For complete classification of this Act of the Code, see Short Title note set out under section 1001 of Title 16 and Tables volume.

The Bankhead-Jones Farm Tenant Act, referred to in text, is act July 22, 1937, ch. 517, 50 Stat. 522. Title III of the Act is classified generally to subchapter III (§ 1010 et seq.) of chapter 33 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1000 of this title and Tables volume.

§ 1932. Rural industrialization assistance

(a) Loans for private business enterprises and pollution abatement and control projects; loan guarantees

The Secretary may also make and insure loans to public, private, or cooperative organizations organized for profit or nonprofit, to Indian tribes on Federal and State reservations or other federally recognized Indian tribal groups, or to individuals for the purpose of improving, developing, or financing business, industry, and employment and improving the economic and environmental climate in rural communities, including pollution abatement and control. Such loans, when originated, held, and serviced by other lenders, may be guaranteed by the Secretary under this section without regard to subsections (a) and (c) of section 1983 of this title.

(b) Grants for pollution abatement and control projects; limitations

The Secretary may make grants, not to exceed $50,000,000 annually, to eligible applicants under this section or pollution abatement and control projects in rural areas. No such grant shall exceed 50 per centum of the development cost of such a project.

(c) Grants for private business enterprises; limitation

The Secretary may also make grants, not to exceed $50,000,000 annually, to public bodies for measures designed to facilitate development of private business enterprises, including the development, construction or acquisition of land, buildings, plants, equipment, access streets and roads, parking areas, utility extensions, necessary water supply and waste disposal facilities, refinancing, services and fees.

(d) Joint loans or grants for private business enterprises; restrictions; system of certification for expeditious processing of requests for assistance; prior approval of grant or loan; equity investment as condition for loan commitment; issuance of certificates of beneficial ownership of notes

The Secretary may participate in joint financing to facilitate development of private business enterprises in rural areas with the Economic Development Administration, the Small Business Administration, and the Department of Housing and Urban Development and other Federal and State agencies and with private and quasi-public financial institutions, through joint loans to applicants eligible under subsection (a) of this section for the purpose of improving, developing, or financing business, industry, and employment and improving the economic and environmental climate in rural areas or through joint grants to applicants eligible under subsection (c) of this section for such purposes, including in the case of loans or grants the development, construction, or acquisition of land, buildings, plants, equipment, access streets and roads, parking areas, utility extensions, necessary water supply and waste disposal facilities, refining, service and fees.

(1) No financial or other assistance shall be extended under any provision of this section

and sections 1924(b) and 1942(b) of this title that is calculated to or is likely to result in the transfer from one area to another of any employment or business activity provided by operations of the applicant, but this limitation shall not be construed to prohibit assistance for the expansion of an existing business entity through the establishment of a new branch, affiliate, or subsidiary of such entity if the establishment of such branch, affiliate, or subsidiary will not result in an increase in unemployment in the area of original location or in any other area where such entity conducts business operations unless there is reason to believe that such branch, affiliate, or subsidiary is being established with the intention of closing down the operations of the existing business entity in the area of its original location or in any other area where it conducts such operations.

(2) No financial or other assistance shall be extended under any provision of this section and sections 1924(b) and 1942(b) of this title which is calculated to or likely to result in an increase in the production of goods, materials, or commodities, or the availability of services or facilities in the area, when there is not sufficient demand for such goods, materials, commodities, services or facilities, to employ the efficient capacity of existing competitive commercial or industrial enterprises, unless such financial or other assistance will not have an adverse effect upon existing competitive enterprises in the area.

(3) No financial or other assistance shall be extended under any provision of this section and sections 1924(b) and 1942(b) of this title if the Secretary of Labor certifies within 60 days after the matter has been submitted to him by the Secretary of Agriculture that the provisions of paragraphs (1) and (2) of this subsection have not been complied with. The Secretary of Labor shall, in cooperation with the Secretary of Agriculture, develop a system of certification which will insure the expeditious processing of requests for assistance under this section.

(4) No grant or loan authorized to be made under this chapter shall require or be subject to the prior approval of any officer, employee, or agency of any State.

(5) No loan commitment issued under this section, section 1924 of this title or section 1942 of this title shall be conditioned upon the applicant investing in excess of 10 per centum in the business or industrial enterprise for which purpose the loan is to be made unless the Secretary determines there are special circumstances which necessitate an equity investment by the applicant greater than 10 per centum.

(6) No provision of law shall prohibit issuance by the Secretary of certificates evidencing beneficial ownership in a block of notes insured or guaranteed under this chapter or Title V of the Housing Act of 1949 [42 U.S.C. 1471 et seq.] any sale by the Secretary of such certificates shall be treated as a sale of assets for the purposes of the Budget and Accounting Act of 1921. Any security representing beneficial ownership in a block of notes guaranteed or insured under this chapter or Title V of the Housing Act of 1949 issued by a private entity shall be exempt from laws administered by the Securities and Exchange Commission, except sections 77q, 77v and 77x of title 15; however, the Secretary shall require (i) that the issuer place such notes in the custody of an institution chartered by a Federal or State agency to act as trustee and (ii) that the issuer provide such periodic reports of sales as the Secretary deems necessary.

(Pub. L. 87-128, title III, § 310B, as added Pub. L. 92-419, title I, § 118(a), Aug. 30, 1972, 86 Stat. 663, and amended Pub. L. 91-524, title VIII, § 817, as added Pub. L. 93-86, § 1(27)(B), Aug. 10, 1973, 87 Stat. 241.)

REFERENCES IN TEXT

In the original "this chapter", referred to in subsecs. (d)(4) and (6), read "this Act," meaning the Consolidated Farm and Rural Development Act, Title III of Pub. L. 87-128, as amended. For classification of this Act in the Code, see Short Title note under section 1921 of this title.

Title V of the Housing Act of 1949, referred to in subsec. (d)(6), is title V of act July 15, 1949, ch. 338, 63 Stat. 432, which is classified generally to subchapter III (§ 1471 et seq.) of chapter 8A of Title 42, The Public Health and Welfare. For complete classification of this Act to the code, see References in Text note set out under section 1441 of Title 42 and Tables volume.

Budget and Accounting Act of 1921, referred to in subsec. (d)(6), is act June 10, 1921, ch. 18, 42 Stat. 20, which is classified generally to chapter 1 (§ 1 et seq.) of Title 31, Money and Finance. For complete classification of this Act to the Code, see section 1 of Title 31 and Tables volume.

AMENDMENTS

1973—Subsec. (d)(4) to (6). Pub. L. 91-524, § 817, as added by Pub. L. 93-86 added subsec. (d)(4) to (6).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1926, 1927, 1929a, 1983, 1992 of this title.

§ 1933. Guaranteed rural housing loans; Hawaiian home lands

(a) Rural Housing Loans which (1) are guaranteed by the Secretary under section 517(a)(2) of the Housing Act of 1949 [42 U.S.C. 1487(a)(2)], (2) are made by other lenders approved by the Secretary to provide dwellings in rural areas for the applicants' own use, and (3) bear interest and other charges at rates not above the maximum rates prescribed by the Secretary of Housing and Urban Development for loans made by private lenders for similar purposes and guaranteed by the Secretary of Housing and Urban Development under the National Housing Act [12 U.S.C. 1701 et seq.] or superseding legislation shall not be subject to sections 501(c) and 502(b)(3) of the Housing Act of 1949 [42 U.S.C. 1471(c) and 1472(b)(3)].

(b) For the purposes of title V of the Housing Act of 1949, as amended [42 U.S.C. 1471 et seq.], a guarantee of payment given under the color of law by the Department of Hawaiian Home Lands (or its successor in function) shall be found by the Secretary reasonably to assure repayment of any indebtedness so guaranteed.

(Pub. L. 87-128, title III, § 310C, as added Pub. L. 92-419, title I, § 119, Aug. 30, 1972, 86 Stat. 664.)

REFERENCES IN TEXT

The National Housing Act, referred to in subsec. (a), is act June 27, 1934, ch. 847, 48 Stat. 1246, which is classified generally to chapter 13 (§ 1701 et seq.) of

Title 12, Banks and Banking. For complete classification of this Act to the Code, see References in Text note set out under section 1701 of Title 12 and Tables volume.

Title V of the Housing Act of 1949, referred to in subsec. (b), is title V of act July 15, 1949, ch. 338, 63 Stat. 432, which is classified generally to subchapter III (§ 1471 et seq.) of chapter 8A of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see References in Text note set out under section 1441 of Title 42 and Tables volume.

SUBCHAPTER II—OPERATING LOANS

Subchapter Referred to in Other Sections

This subchapter is referred to in sections 1962, 1964, 1983 of this title.

§ 1941. Persons eligible for loans

(a) The Secretary is authorized to make loans under this subchapter to farmers and ranchers in the United States and in Puerto Rico and the Virgin Islands who (1) are citizens of the United States, (2) have a farm background and training or farming experience which the Secretary determines is sufficient to assure reasonable prospects of success in the proposed farming operation, (3) are or will become operators of not larger than family farms, and (4) are unable to obtain sufficient credit elsewhere to finance their actual needs at reasonable rates and terms, taking into consideration prevailing private and cooperative rates and terms in the community in or near which the applicant resides for loans for similar purposes and periods of time.

(b)(1) Loans may also be made under this subchapter without regard to the requirements of clauses (2) and (3) of subsection (a) of this section to youths who are rural residents to enable them to operate enterprises in connection with their participation in 4-H Clubs, Future Farmers of America, and similar organizations and for the purposes specified in section 1942 of this title.

(2) A person receiving a loan under this subsection who executes a promissory note therefore shall thereby incur full personal liability for the indebtedness evidenced by such note in accordance with its terms free of any disability of minority.

(3) For loans under this subsection the Secretary may accept the personal liability of a cosigner of the promissory note in addition to the borrowers' personal liability.

(Pub. L. 87-128, title III, § 311, Aug. 8, 1961, 75 Stat. 310; Pub. L. 92-419, title I, § 120(a), Aug. 30, 1972, 86 Stat. 665.)

Amendments

1972—Pub. L. 92-419 designated existing provisions as subsec. (a) and added subsec. (b).

Section Referred to in Other Sections

This section is referred to in section 1942 of this title.

§ 1942. Purposes of loans; grants for pollution abatement and control projects, limitations

(a) Loans may be made under this subchapter for (1) paying costs incident to reorganizing the farming system for more profitable operation, (2) purchasing livestock, poultry, and farm equipment, (3) purchasing feed, seed, fertilizer, insecticides, and farm supplies and to meet other essential farm operating expenses including cash rent, (4) financing land and water development, use, and conservation, (5) without regard to the requirements of section 1941(a)(2) and (3) of this title, to individual farmers or ranchers to finance outdoor recreational enterprises or to convert to recreational uses their farming or ranching operations, including those heretofore financed under this chapter, (6) enterprises needed to supplement farm income, (7) refinancing existing indebtedness, (8) other farm and home needs including but not limited to family subsistence, (9) loan closing costs, and (10) for assisting farmers or ranchers in effecting additions to or alterations in the equipment, facilities, or methods of operation of their farms or ranches in order to comply with the applicable standards promulgated pursuant to section 655 of title 29 or standards adopted by a State pursuant to a plan approved under section 667 of title 29, if the Secretary determines that any such farmer or rancher is likely to suffer substantial economic injury due to such compliance without assistance under this paragraph.

(b) Loans may also be made under this subchapter to residents of rural areas without regard to the requirements of clauses (2) and (3) of section 1941(a) of this title to operate in rural areas small business enterprises to provide such residents with essential income.

(c) Loans may also be made to eligible applicants under this subchapter for pollution abatement and control projects in rural areas.

(d) The Secretary may make grants, not to exceed $25,000,000 annually, to eligible applicants under this subchapter for pollution abatement and control projects in rural areas. No such grant shall exceed 50 per centum of the development cost of such a project.

(Pub. L. 87-128, title III, § 312, Aug. 8, 1961, 75 Stat. 310; Pub. L. 87-703, title IV, § 401(4), Sept. 27, 1962, 76 Stat. 632; Pub. L. 90-488, § 8, Aug. 15, 1968, 82 Stat. 771; Pub. L. 92-419, title I, §§ 120(b), 121, Aug. 30, 1972, 86 Stat. 665.)

References in Text

In the original "this chapter", referred to in subsec. (a), read "this title", meaning the Consolidated Farm and Rural Development Act, title III of Pub. L. 87-128, as amended. For classification of this title in the Code, see Short Title note under section 1921 of this title.

Amendments

1972—Subsec. (a). Pub. L. 92-419, §§ 120(b), 121(1), (2), substituted "section 1941(a) for "section 1941", designated existing provisions as subsec. (a), and added item (10).

Subsecs. (b) to (d). Pub. L. 92-419, § 121(3), added subsecs. (b) to (d).

1968—Pub. L. 90-488 deleted from item (4) the concluding phrase, "including recreational uses and facilities", added items (5) and (6), and renumbered former items (5) to (7) as (7) to (9), respectively.

1962—Pub. L. 87-703 authorized, in item (4), loans to be made for recreational uses and facilities.

Section Referred to in Other Sections

This section is referred to in sections 1926, 1929a, 1932, 1941, 1947, 1992 of this title.

§ 1943. Limitations and prohibitions on loans

The Secretary shall make no loan under this subchapter (1) which would cause the total principal indebtedness outstanding at any one time for loans made under this subchapter and under section 21 of the Bankhead-Jones Farm Tenant Act, as amended, to exceed $50,000, (2) for the purchasing or leasing of land other than for cash rent, or for carrying on any land leasing or land purchasing program, or (3) in excess of an amount certified by the county committee.

(Pub. L. 87-128, title III, § 313, Aug. 8, 1961, 75 Stat. 310; Pub. L. 90-488, § 9, Aug. 15, 1968, 82 Stat. 771; Pub. L. 92-419, title I, § 122, Aug. 30, 1972, 86 Stat. 665.)

REFERENCES IN TEXT

Section 21 of the Bankhead-Jones Farm Tenant Act, as amended, referred to in the text, refers to section 21 of act July 22, 1937, ch. 517, title II, 50 Stat. 524, as amended, which was formerly classified to section 1007 of this title and was repealed by section 341(a) of Pub. L. 87-128.

AMENDMENTS

1972—Pub. L. 92-419 substituted "$50,000" for "$35,000".

1968—Pub. L. 90-488 struck out from item (1) the proviso which limited the amount to be used for loans which would cause the indebtedness of any borrower to exceed $15,000 to 25 per centum of the sums made available for loans.

§ 1944. Soil conservation district loans; limitations; purchase of conservation equipment

Loans aggregating not more than $500,000 in any one year may also be made to soil conservation districts which cannot obtain necessary credit elsewhere upon reasonable terms and conditions for the purchase of equipment customarily used for soil conservation purposes.

(Pub. L. 87-128, title III, § 314, Aug. 8, 1961, 75 Stat. 311.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1983 of this title.

§ 1945. Participating loans

The Secretary is authorized to participate in loans which could otherwise be made by the Secretary under this subchapter which are made by commercial banks, cooperative lending agencies, or other legally organized agricultural lending agencies up to 80 per centum of the amount of the loan.

(Pub. L. 87-128, title III, § 315, Aug. 8, 1961, 75 Stat. 311.)

§ 1946. Liability of borrower; interest rate; security; maturity; renewal

The Secretary shall make all loans under this subchapter upon the full personal liability of the borrower and upon such security as the Secretary may prescribe. Such loans shall be payable in not more than seven years, but may be renewed for not more than five additional years. Loans made under this subchapter shall bear interest at a rate determined by the Secretary of the Treasury taking into consideration the current average market yield on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the average maturities of such loans, adjusted to the nearest one-eighth of 1 per centum, plus not to exceed 1 per centum per annum as determined by the Secretary.

(Pub. L. 87-128, title III, § 316, Aug. 8, 1961, 75 Stat. 311; Pub. L. 90-488, § 10, Aug. 15, 1968, 82 Stat. 771.)

AMENDMENTS

1968—Pub. L. 90-488 substituted provisions for determination of interest rate by taking into consideration current average market yield on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the average maturities of the loans, adjusted to the nearest one-eighth of 1 per centum, plus not to exceed 1 per centum per annum as determined by the Secretary, for former prohibition of an interest rate exceeding 5 per centum per annum.

§ 1947. Insured operating loans

Loans meeting the requirements of this subchapter (except section 1942(b) of this title) may be insured, or made to be sold and insured, in accordance with and subject to sections 1928 and 1929 and the last sentence of section 1927 of this title.

(Pub. L. 87-128, title III, § 317, as added Pub. L. 92-419, title I, § 123, Aug. 30, 1972, 86 Stat. 665.)

SUBCHAPTER III—EMERGENCY LOANS

EMERGENCY LIVESTOCK CREDIT

Pub. L. 93-357, July 25, 1974, 88 Stat. 391, as amended by Pub. L. 94-35, § 1, June 16, 1975, 89 Stat. 213; Pub. L. 94-517, Oct. 15, 1976, 90 Stat. 2446, provided: "That

"[Sec. 1. Short Title.] This Act may be cited as the 'Emergency Livestock Credit Act of 1974'.

"Sec. 2. [Financial Assistance; Loan Guarantees; Term and Renewal] (a) The Secretary of Agriculture is authorized and directed to provide financial assistance to bona fide farmers and ranchers who are primarily and directly engaged in agricultural production and who have substantial operations in breeding, raising, fattening, or marketing livestock. In the case of corporations or partnerships, such financial assistance shall be extended only when a majority interest in such corporations or partnerships is held by stockholders or partners who themselves are primarily and directly engaged in such agricultural production. For purposes of this Act, the term 'livestock' shall mean beef cattle, dairy cattle, swine, sheep, goats, chickens, and turkeys including dairy cattle raised and maintained for the primary purpose of marketing dairy products.

"(b) The Secretary shall guarantee loans, including both principal and interest, made by any legally organized lending agency which otherwise meet the purposes and conditions of this Act. As used herein, a guaranteed loan is one which is made, held, and serviced by a legally organized lending agency and which is guaranteed by the Secretary hereunder: *Provided*, That the term 'legally organized lending agency' shall be deemed to include the Federal Financing Bank only to the extent that such bank may hold the guaranteed portion of such loans.

"(c) No contract guaranteeing any such loan by a lender shall require the Secretary to guarantee more than 90 per centum of the principal and interest on such loan.

"(d) No fees or charges shall be assessed by the Secretary for any guarantee provided by him under this Act.

"(e) Loans guaranteed under this Act shall bear interest at a rate to be agreed upon by the lender and borrower.

"(f) Loans guaranteed under this Act shall be for the period reasonably required by the needs of the borrower, taking into consideration the security the borrower has available, but not exceeding an original term of seven years. Loans may be renewed for not more than three additional years.

"Sec. 3. [Loan Certification] As a condition of the Secretary's guaranteeing any loan under this Act—

"(a) The lender shall certify that—

"(1) the lender is unwilling to provide credit to the loan applicant in the absence of the guarantee authorized by this Act;

"(2) the loan applicant is directly and in good faith engaged in agricultural production, and the financing to be furnished the loan applicant is to be used for purposes related to the breeding, raising, fattening, or marketing of livestock;

"(3) the loan is for the purpose of maintaining the operations of the loan applicant, and the total loans made to the loan applicant do not exceed the amount necessary to permit the continuation of his livestock operations at a level equal to its highest level during the eighteen months immediately preceding the date of enactment of this Act [July 25, 1974]: *Provided,* That the total principal balance outstanding at any one time on loans guaranteed under this Act for any borrower shall not exceed $350,000;

"(4) in the case of any loan to refinance the livestock operations of a loan applicant (i) the loan and refinancing are absolutely essential in order for the loan applicant to remain in business, (ii) the lending agency would not refinance such loan in the absence of a guarantee, and (iii) the lending agency is not currently refinancing similar loans to others without such guarantees.

"(b) The loan applicant shall certify that he will be unable to obtain financing in the absence of the guarantee authorized by this Act.

"(c) The Secretary finds there is reasonable probability of accomplishing the objectives of the Act and repayment of the loan.

"Sec. 4. [Adequate Security] Loans guaranteed under this Act shall be secured by collateral adequate to protect the Government's interests, as determined by the Secretary: *Provided,* That the Secretary may accept collateral which has depreciated in value owing to temporary economic conditions and which, in the opinion of the lender, together with his confidence in the repayment ability of the borrower, is adequate security for the loan.

"Sec. 5. [Limitation on Outstanding Loan Guarantees] Loan guarantees outstanding under this Act shall not exceed $1,500,000,000 at any one time. Subject to the provisions of section 2(c) of this Act, the fund created in section 309 of the Consolidated Farm and Rural Development Act [section 1929 of this title] shall be used by the Secretary for the discharge of the obligations of the Secretary under contracts of guarantee made pursuant to this Act. Such fund may also be utilized to pay administrative expenses of the Secretary necessary to carry out the provisions of this Act. The Secretary in his discretion is authorized to use the funds from the Agricultural Credit Insurance Fund to purchase, on such terms and conditions as he may deem appropriate, the guaranteed portion of any loan made pursuant to this Act and to pay such expenses and fees incident to such purchases.

"Sec. 6. [Non-inclusion in Budget Totals; Exemption From General Limitations] Contracts of guarantee under this Act shall not be included in the totals of the budget of the United States Government and shall be exempt from any general limitation imposed by statute on expenditures and net lending (budget outlays) of the United States.

"Sec. 7. [Full Faith and Credit] Any contract of guarantee executed by the Secretary under this Act shall be an obligation supported by the full faith and credit of the United States and incontestable except for fraud or misrepresentation of which the holder had actual knowledge at the time it became a holder.

"Sec. 8. [Effective Date] The provisions of this Act shall become effective upon enactment, and the authority to make new guarantees shall expire on September 30, 1978.

"Sec. 9. [Certificates; Assignment] (a) The provisions of section 310B(d)(6) of the Consolidated Farm and Rural Development Act [section 1932(d)(6) of this title] shall apply to loans guaranteed under this Act.

"(b) Contracts of guarantee executed pursuant to the provisions of this Act shall be fully assignable.

"Sec. 10. [Rules and Regulations] The Secretary is authorized to issue such regulations as he determines necessary to carry out this Act. The proposed regulations shall be issued as soon as possible, but in no event later than thirty days from the date of enactment of this Act [July 25, 1974]. Insofar as practicable, the Secretary shall complete action on each loan application within thirty days after its receipt.

"Sec. 11. [Report by Secretary]. The Secretary shall report to the Committee on Agriculture, United States House of Representatives, and the Committee on Agriculture and Forestry, United States Senate, on or within one year of the date of the enactment of this section [June 16, 1975], and annually thereafter, with respect to the effectiveness of this Act. The Secretary shall be required, but not limited, to include in such report the number of loan applications submitted, the number and amount of loans approved, the financial situation facing cattlemen at the time of the report, the effect of this Act on the retail marketing of beef and on the farm-retail price spread of beef, and any recommendations he may have as to actions which can be taken to further decrease the price spread and to increase the consumption of beef."

§ 1961. Designation of emergency areas; persons eligible for loans

(a) The Secretary shall designate any area in the United States, Puerto Rico, and the Virgin Islands as an emergency area if he finds that a natural disaster has occurred in said area which substantially affected farming, ranching, or aquaculture operations. For purposes of this subchapter "aquaculture" means husbandry of aquatic organisms under a controlled or selected environment.

(b) The Secretary shall make loans in any such area designated by the Secretary in accordance with subsection (a) of this section and in any area designated as a major disaster or emergency by the President pursuant to the provisions of the Disaster Relief Act of 1970, as amended, (1) to established farmers, ranchers, or persons engaged in aquaculture who are citizens of the United States and (2) to private domestic corporations or partnerships engaged primarily in farming, ranching, or aquaculture: *Provided,* That they have experience and resources necessary to assure a reasonable prospect for successful operation with the assistance of such loan and are unable to obtain sufficient credit elsewhere to finance their actual needs at reasonable rates and terms, taking into consideration prevailing private and cooperative rates and terms in the community in or near which the applicant resides for loans for similar purposes and periods of time. The provisions of this subsection shall not be applicable to loan applications filed prior to July 9, 1975.

(Pub. L. 87-128, title III, § 321, Aug. 8, 1961, 75 Stat. 311; Pub. L. 87-832, Oct. 15, 1962, 76 Stat. 958; Pub. L. 93-24, §§ 2, 3, 6, Apr. 20, 1973, 87 Stat. 24, 25; Pub. L. 93-237, § 10(a), (d), Jan. 2,

1974, 87 Stat. 1025; Pub. L. 94-68, §§ 2, 3, Aug. 5, 1975, 89 Stat. 381.)

REFERENCES IN TEXT

The Disaster Relief Act of 1970, as amended, referred to in subsec. (b) was repealed by Pub. L. 93-288, title VI, § 603, May 22, 1974, 88 Stat. 164, title I of which enacted the Disaster Relief Act of 1974, section 5121 et seq. of Title 42, the Public Health and Welfare. A reference in any provision of law to the Disaster Relief Act of 1970 is deemed a reference to the appropriate provision of the Disaster Relief Act of 1974, see section 602(m) of the Disaster Relief Act of 1974, set out as a note under section 5121 of Title 42.

AMENDMENTS

1975—Subsec. (a). Pub. L. 94-68, § 2, substituted provisions authorizing the Secretary to designate an emergency area if he finds that a natural disaster has occurred in that area which substantially affected farming, ranching, or aquaculture operations for provisions authorizing the Secretary to designate an emergency area if he finds that there exists in that area a general need for agricultural credit and that the need for such credit in that area is the result of a natural disaster, and added definition of "aquaculture".

Subsec. (b). Pub. L. 94-68, § 3, extended the authority of the Secretary to make loans to areas designated by the President as "Emergency" pursuant to Disaster Relief Act of 1970, substituted reference to persons engaged in aquaculture and aquaculture for reference to oyster planters and oyster planting respectively, struck out provision that such loans be made without regard to whether the required financial assistance is otherwise available from private, cooperative, or other responsible sources, added requirement that the loan applicant be unable to obtain credit elsewhere at reasonable rates and terms, and added sentence that the provisions of this subsection shall not apply to loan applications filed prior to July 9, 1975.

1974—Subsec. (a). Pub. L. 93-237, § 10(d), struck out "which cannot be met for temporary periods of time by private, cooperative, or other responsible sources (including loans the Secretary is authorized to make or insure under subchapters I and II of this chapter or any other Act of Congress), at reasonable rates and terms for loans for similar purposes and periods of time" following "a general need for agricultural credit".

Subsec. (b). Pub. L. 93-237, § 10(a), struck out ", and are unable to obtain sufficient credit elsewhere to finance their actual needs at reasonable rates and terms, taking into consideration prevailing practice and cooperative rates and terms in the community in or near which the applicant resides for loans for similar purposes and periods of time" following "a reasonable prospect for successful operation with the assistance of such loan" and added provision that the loans be made without regard to whether the required financial assistance is otherwise available from the private, cooperative, or other responsible sources.

1973—Subsec. (a). Pub. L. 93-24, §§ 2, 6, substituted in the parenthetical text "authorized to make or insure under subchapters I and II of this chapter" for "authorized to make under subchapter II of this chapter or to make or insure under subchapter I of this chapter" and the introductory words "shall designate" for "may designate", respectively.

Subsec. (b). Pub. L. 93-24, § 3, substituted the introductory text "shall make loans in any such area designated by the Secretary in accordance with subsection (a) of this section and in any area designated as a major disaster by the President pursuant to the provisions of the Disaster Relief Act of 1970, as amended," for "is authorized to make loans in any such area" and ": Provided, That" for "provided" preceding "they have experience".

1962—Subsec. (b). Pub. L. 87-832 authorized loans to established oyster planters and to private domestic corporations or partnerships engaged primarily in oyster planting.

EFFECTIVE DATE OF 1974 AMENDMENT

Section 10(b) of Pub. L. 93-237 provided that: "The provisions of subsection (a) of this section [amending subsec. (b) of this section] shall be given effect with respect to all loan applications and loans made in connection with a disaster occurring on or after April 20, 1973."

Section 10(d) of Pub. L. 93-237 provided in part that: "The provisions of this subsection [amending subsec. (a) of this section] shall be given effect with respect to all loan applications and loans made in connection with a disaster occurring on or after December 27, 1972."

NINETY-DAY EXTENSION AFTER JANUARY 2, 1974, OF DEADLINE FOR SEEKING ASSISTANCE WITH REGARD TO DISASTERS OCCURRING ON OR AFTER DECEMBER 27, 1972

Section 10(c) of Pub. L. 93-237 provided that: "With regard to all disasters occurring on or after December 27, 1972, the Secretary of Agriculture shall extend for ninety days after the date of enactment of this section [Jan. 2, 1974] the deadline for seeking assistance under section 321 of the Consolidated Farm and Rural Development Act [this section] as amended by this section [amending this section]."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1965, 1983 of this title; title 15 section 636.

§ 1962. Purpose and extent of loans

Loans may be made under this subchapter for any of the purposes authorized for loans under subchapter I or II of this chapter, as well as for crop or livestock changes deemed desirable by the applicant: *Provided,* That such loans may include, but are not limited to, the amount of the actual loss sustained as a result of the disaster.

(Pub. L. 87-128, title III, § 322, Aug. 8, 1961, 75 Stat. 311; Pub. L. 94-68, § 4, Aug. 5, 1975, 89 Stat. 381.)

REFERENCES IN TEXT

In the original "this chapter", referred to in text, read "this title", meaning the Consolidated Farm and Rural Development Act, title III of Pub. L. 87-128, as amended. For classification of this title in the Code, see Short Title note under section 1921 of this title.

AMENDMENTS

1975—Pub. L. 94-68 extended the authority to finance crop or livestock changes deemed desirable as a result of changes in market demand, and to make emergency loans in excess of the actual loss sustained as a result of the natural disaster.

§ 1963. Limitation of loans to amount certified by county committee

The Secretary shall make no loan under this subchapter in excess of an amount certified by the county committee.

(Pub. L. 87-128, title III, § 323, Aug. 8, 1961, 75 Stat. 311.)

§ 1964. Liability of borrower; interest rate; maturity; security

Loans made or insured under this chapter shall be (1) at a rate of interest not in excess of 5 per centum per annum on loans up to the amount of the actual loss caused by the disas-

ter, and (2) for any loans or portions of loans in excess of that amount, the interest rate will be that prevailing in the private market for similar loans, as determined by the Secretary. All such loans shall be repayable at such times as the Secretary may determine, taking into account the purposes of the loan and the nature and effect of the disaster, but not later than provided for loans for similar purposes under subchapters I and II of this chapter, and upon the full personal liability of the borrower and upon the best security available, as the Secretary may prescribe: *Provided,* That the security is adequate to assure repayment of the loans; except that if such security is not available because of the disaster, the Secretary shall (i) accept as security such collateral as is available, a portion or all of which may have depreciated in value due to the disaster and which in the opinion of the Secretary, together with his confidence in the repayment ability of the applicant, is adequate security for the loan, and (ii) make such loan repayable at such times as he may determine, not later than that provided under subchapters I and II of this chapter, as justified by the needs of the applicant: *Provided further,* That for any disaster occurring after January 1, 1975, the Secretary, if the loan is for a purpose described in subchapter II of this chapter, may make the loan repayable at the end of a period of more than seven years, but not more than twenty years, if the Secretary determines that the need of the loan applicant justifies such a longer repayment period: *Provided further,* That notwithstanding the provisions of any other law, any loan made by the Small Business Administration in connection with a disaster occurring on or after August 5, 1975 under section 636(b)(1), (2), or (4) of title 15 shall bear interest at the rate determined in the first paragraph following section 636(b)(8) of title 15 for loans under paragraphs (3), (5), (6), (7), or (8) of section 636(b) of title 15.

(Pub. L. 87-128, title III, § 324, Aug. 8, 1961, 75 Stat. 311; Pub. L. 93-24, § 4, Apr. 20, 1973, 87 Stat. 25; Pub. L. 94-68, § 5, Aug. 5, 1975, 89 Stat. 381.)

REFERENCES IN TEXT

In the original "this chapter", referred to in text, read "this title", meaning the Consolidated Farm and Rural Development Act, title III of Pub. L. 87-128, as amended. For classification of this title in the Code, see Short Title note under section 1921 of this title.

AMENDMENTS

1975—Pub. L. 94-68 made the existing rate of 5 percent applicable to loans up to the amount of the actual loss caused by the disaster, added provisions that for loans or portions of loans in excess of that amount the interest rate will be that prevailing in the private market for similar loans, as determined by the Secretary, and added provisos relating to security, disasters occurring after Jan. 1, 1975, and loans made by Small Business Administration.

1973—Pub. L. 93-24 substituted "5" for "3" per centum.

SMALL BUSINESS DISASTER LOANS; INTEREST RATE; CANCELLATION OF LOANS

Loans by Small Business Administration inconnection with any disaster occuring on or after Apr. 20, 1973 made under section 636(b)(1), (2), or (4) of Title 15, as subject to interest rate determined under this section and prohibition against cancellation of such loan under any provision of law, see section 9 of Pub. L. 93-24, set out as a note under section 636 of Title 15, Commerce and Trade.

§ 1965. Delegation of authority to State Directors of the Farmers Home Administration to make emergency loans

The Secretary may delegate authority to any State director of the Farmers Home Administration to make emergency loans in any area within a State of the United States, Puerto Rico, or the Virgin Islands on the same terms and conditions set out in section 1961(a) of this title without any formal area designation being made: *Provided,* That the State director finds that a natural disaster has substantially affected twenty-five or less farming, ranching, or aquaculture operations in the area.

(Pub. L. 87-128, title III, § 325, Aug. 8, 1961, 75 Stat. 311; Pub. L. 94-68, § 6, Aug. 5, 1975, 89 Stat. 382.)

AMENDMENTS

1975—Pub. L. 94-68 substituted provisions relating to delegation of authority to State director of the Farmers Home Administration to make loans without formal area designation for provisions authorizing the Secretary to make such loans to persons suffering isolated production losses and to indebted borrowers. See section 1970 of this title.

§ 1966. Emergency Credit Revolving Fund utilization

The Secretary is authorized to utilize the revolving fund created by section 1148a of title 12 (hereinafter in this subchapter referred to as the "Emergency Credit Revolving Fund") for carrying out the purposes of this subchapter.

(Pub. L. 87-128, title III, § 326, Aug. 8, 1961, 75 Stat. 312.)

REFERENCES IN TEXT

Section 1148a of title 12, referred to in text, was repealed by Pub. L. 92-181, title V, § 5.26(a), Dec. 10, 1971, 85 Stat. 624, and is now covered by section 2252 of Title 12, Banks and Banking.

The Emergency Credit Revolving Fund, referred to in text, was abolished and its assets and liabilities transferred to the Agricultural Credit Insurance Fund by section 1929 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1929 of this title.

§ 1967. Addition to Emergency Credit Revolving Fund of sums from liquidation of loans; authorization of appropriations

(a) All sums received by the Secretary from the liquidation of loans made under the provisions of this subchapter or under the Act of April 6, 1949, as amended, or the Act of August 31, 1954, and from the liquidation of any other assets acquired with money from the Emergency Credit Revolving Fund shall be added to and become a part of such fund.

(b) There are authorized to be appropriated to the Emergency Credit Revolving Fund such additional sums as the Congress shall from time to time determine to be necessary.

(Pub. L. 87-128, title III, § 327, Aug. 8, 1961, 75 Stat. 312.)

REFERENCES IN TEXT

The Act of April 6, 1949, as amended, referred to in subsec. (a), is act Apr. 6, 1949, ch. 49, 63 Stat. 43, as amended, which was formerly classified to sections 1148a-1 to 1148a-3 of Title 12, Banks and Banking, was repealed by section 341(a) of Pub. L. 87-128, and is now covered by this chapter.

The Act of August 31, 1954, referred to in subsec. (a), is act Aug. 31, 1954, ch. 1145, 68 Stat. 999, which was formerly classified as a note under section 1148a-1 of Title 12, Banks and Banking, was repealed by section 341(a) of Pub. L. 87-128, and is now covered by this chapter.

ABOLITION OF EMERGENCY CREDIT REVOLVING FUND

The Emergency Credit Revolving Fund, referred to in this section and in section 1966 of this title, was abolished and its assets and liabilities transferred to the Agricultural Credit Insurance Fund by section 1929 of this title.

§ 1968. Insurance of loans

Loans meeting the requirements of this subchapter and any amendatory or supplementary Act may be insured, or made to be sold and insured, in accordance with and subject to sections 1928 and 1929 and the last sentence of section 1927 of this title: *Provided*, That loans made under this section shall not be included in applying the $500,000,000 limitation in section 1929(f)(1) of this title.

(Pub. L. 87-128, title III, § 328, as added Pub. L. 92-173, Nov. 24, 1971, 85 Stat. 491, and amended Pub. L. 93-24, § 5, Apr. 20, 1973, 87 Stat. 25.)

AMENDMENTS

1973—Pub. L. 93-24 substituted "$500,000,000" for "$100,000,000".

§ 1969. Repealed. Pub. L. 93-24, § 1, Apr. 20, 1973, 87 Stat. 24

Section, Pub. L. 87-128, title III, § 328, as added Pub. L. 92-385, § 5, Aug. 16, 1972, 86 Stat. 557, provided for emergency loans for major and natural disasters occurring between June 30, 1971, and July 1, 1973, providing in: subsec. (a) for cancellation of existing loans and the considerations in making grants, loans, and refinancing of loans; subsec. (b) for loans for loss or damage to agricultural crops; subsec. (c) for amount of loans and interest rates; subsec. (d) for availability of benefits irrespective of age; subsec. (e) for availability of benefits irrespective of approval date; and subsec. (f) for report to Congress.

LOANS TO ELIGIBLE APPLICANTS IN AREAS DETERMINED AS NATURAL DISASTER AREAS AFTER JANUARY 1, 1972, AND BEFORE DECEMBER 27, 1972; TIME FOR ACCEPTANCE OF APPLICATIONS

Section 8 of Pub. L. 93-24 provided that: "Notwithstanding the repeal herein of section 5 of Public Law 92-385 [this section], and notwithstanding any other provision of law, the Secretary of Agriculture shall make loans in accordance with the provisions of section 5 of Public Law 92-385 [this section] to eligible applicants in natural disaster areas determined or designated by the Secretary of Agriculture where such determination or designation had been made after January 1, 1972 and prior to December 27, 1972. The authority to accept applications for such loans shall expire 18 days after the effective date of this Act [Apr. 20, 1973]."

CONTINUATION OF SECRETARY'S AUTHORITY WITH RESPECT TO NATURAL DISASTERS OCCURRING AFTER DECEMBER 26, 1972, AND PRIOR TO APRIL 20, 1973

Pub. L. 93-237, § 4, Jan. 2, 1974, 87 Stat. 1024, provided that: "Notwithstanding the provisions of Public Law 93-24 [which repealed this section], the Secretary of Agriculture shall continue to exercise his authority with respect to natural disasters which occurred after December 26, 1972, but prior to April 20, 1973, in accordance with the provisions of section 5 of Public Law 92-385 [this section] as such section was in effect prior to April 20, 1973."

§ 1970. Eligibility for assistance based on production loss

An applicant seeking financial assistance based on production losses must show that a single enterprise which constitutes a basic part of his farming, ranching, or aquaculture operation has sustained at least a 20 per centum loss of normal per acre or per animal production as a result of the disaster.

(Pub. L. 87-128, title III, § 329, as added Pub. L. 94-68, § 7, Aug. 5, 1975, 89 Stat. 382.)

§ 1971. Additional emergency loans

Subsequent loans, to continue the farming, ranching, or aquaculture operation may be made under this subchapter on an annual basis, for not to exceed five additional years, to eligible borrowers, at the prevailing rate of interest in the private market for similar loans as determined by the Secretary, when the financial situation of the farming, ranching, or aquaculture operation has not improved sufficiently to permit the borrower to obtain such financing from other sources.

(Pub. L. 87-128, title III, § 330, as added Pub. L. 94-68, § 8, Aug. 5, 1975, 89 Stat. 382.)

SUBCHAPTER IV—ADMINISTRATIVE PROVISIONS

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in title 25 section 492.

§ 1981. Farmers Home Administration; appointment and compensation of Administrator; transfer of powers, duties and assets pertaining to agricultural credit; powers of Secretary of Agriculture

For the purposes of this chapter and for the administration of assets under the jurisdiction of the Secretary of Agriculture pursuant to the Farmers Home Administration Act of 1946, as amended, the Bankhead-Jones Farm Tenant Act, as amended, the Act of August 28, 1937, as amended, the Act of April 6, 1949, as amended, the Act of August 31, 1954, as amended, and the power and duties of the Secretary under any other Act authorizing agricultural credit, the Secretary may assign and transfer such powers, duties, and assets to the Farmers Home Administration, to be headed by an Administrator, appointed by the President, by and with the advice and consent of the Senate, without regard to the civil service laws or chapter 51 and subchapter III of chapter 53 of title 5, who shall receive basic compensation as provided by law for that office.

The Secretary may—

(a) administer his powers and duties through such national, area, State, or local offices and employees in the United States and in Puerto Rico and the Virgin Islands as he determines to be necessary and may authorize an office to serve the area composed of two or more States if he determines that

the volume of business in the area is not sufficient to justify separate State offices, and until January 1, 1975, make contracts for services incident to making, insuring, collecting, and servicing loans and property as determined by the Secretary to be necessary for carrying out the purposes of this chapter; (and the Secretary shall prior to June 30, 1974, report to the Congress through the President on the experience in using such contracts, together with recommendations for such legislation as he may see fit);

(b) accept and utilize voluntary and uncompensated services, and, with the consent of the agency concerned, utilize the officers, employees, equipment, and information of any agency of the Federal Government, or of any State, territory, or political subdivision;

(c) within the limits of appropriations made therefor, make necessary expenditures for purchase or hire of passenger vehicles, and such other facilities and services as he may from time to time find necessary for the proper administration of this Act;

(d) compromise, adjust, or reduce claims, and adjust and modify the terms of mortgages, leases, contracts, and agreements entered into or administered by the Farmers Home Administration under any of its programs, as circumstances may require, but compromises, adjustments, or reductions of claims of $15,000 or more shall not be made, without the approval of the Administrator: *Provided, however,* That—

(1) compromise, adjustment, or reduction of claims shall be based on the value of the security and a determination by the Secretary of the debtor's reasonable ability to pay considering his other assets and income at the time of the action and with or without the payment of any consideration at the time of such adjustment or reduction;

(2) releases from personal liability may also be made with or without payment of any consideration at the time of adjustment of claims against—

(A) borrowers who have transferred the security property to approved applicants under agreements assuming the outstanding secured indebtedness;

(B) borrowers who have transferred the security property to approved applicants under agreements assuming that portion of the secured indebtedness equal to the current market value of the security property or transferred the security property to the Secretary;

(C) borrowers who have transferred the security property to other than approved applicants under agreements assuming the full amount of, or that portion of the secured indebtedness equal to, the current market value of the security property on terms not to exceed five annual installments with interest on the unpaid balance at a rate determined by the Secretary; and

(D) borrowers who transfer security property under subparagraphs (B) and (C) above for amounts less than the indebtedness secured thereby may be released from personal liability only on a determination by the Secretary that each such borrower has no reasonable debt-paying ability considering his assets and income at the time of the transfer and the county committee certifies that the borrower has cooperated in good faith, used due diligence to maintain the security property against loss, and has otherwise fulfilled the covenants incident to his loan to the best of his ability;

(3) no compromise, adjustment, or reduction of claims shall be made upon terms more favorable than recommended by the appropriate county committee utilized pursuant to section 1982 of this title; and

(4) any claim which has been due and payable for five years or more, and where the debtor has no assets or no apparent future debt-paying ability from which the claim could be collected, or is deceased and has left no estate, or has been absent from his last known address for a period of at least five years, has no known assets, and his whereabouts cannot be ascertained without undue expense, may be charged off or released by the Secretary upon a report and favorable recommendation of the county committee and of the employee having charge of the claim, and any claim involving a principal balance of $150 or less may be charged off or released whenever it appears to the Secretary that further collection efforts would be ineffectual or likely to prove uneconomical; and

(5) partial releases and subordination of mortgages may be granted either where the secured indebtedness remaining after the transaction will be adequately secured or the security interest of the Secretary will not be adversely affected, and the transaction and use of proceeds will further the purposes for which the loan was made, improve the borrower's debt-paying ability, permit payments on indebtedness owed to or insured by the Secretary, or permit payment of reasonable costs and expenses incident to the transaction, including taxes incident to or resulting from the transaction which the borrower is unable to pay from other sources:

Provided further, That no such compromise, adjustment, or reduction shall be made hereunder after the claim has been referred to the Attorney General unless agreed to by the Attorney General;

(e) collect all claims and obligations arising or administered under this chapter, or under any mortgage, lease, contract, or agreement entered into or administered pursuant to this chapter and, if in his judgment necessary and advisable, pursue the same to final collection in any court having jurisdiction;

(f) Release mortgage and other contract liens if it appears that they have no present or prospective value or that their enforcement likely would be ineffectual or uneconomical;

(g) Obtain fidelity bonds protecting the Government against fraud and dishonesty of officers and employees of the Farmers Home Administration in lieu of faithful perfor-

mance of duties bonds under section 14 of title 6, and regulations issued pursuant thereto, but otherwise in accordance with the provisions thereof;

(h) Not require borrowers to pay interest accrued after December 31, 1972, on interest which is not more than 90 days overdue on any loan held or insured by the Farmers Home Administration;

(i) Consent to the transfer of property securing any loan or financed by any loan or grant made, insured, or held by the Secretary under this chapter, or the provisions of any other law administered by the Farmers Home Administration, upon such terms as he deems necessary to carry out the purpose of the loan or grant or to protect the financial interest of the Government.

(Pub. L. 87-128, title III, § 331, Aug. 8, 1961, 75 Stat. 312; Pub. L. 90-488, § 11, Aug. 15, 1968, 82 Stat. 771; Pub. L. 92-419, title I, § 124, Aug. 30, 1972, 86 Stat. 665.)

REFERENCES IN TEXT

In the original "this chapter", referred to in introductory paragraph and pars. (a), (e), and (i), read "this title", meaning the Consolidated Farm and Rural Development Act, title III of Pub. L. 87-128, as amended. For distribution of such title in the Code, see Short Title note under section 1921 of this title.

The Farmers Home Administration Act of 1946, as amended, referred to in the opening par., is act Aug. 14, 1946, ch. 964, 60 Stat. 1062, as amended, which was classified to former sections 1001 to 1005, 1005a to 1005d, 1007, 1008, 1009, 1015 to 1029 and sections 1030, 1031 of this title, section 371 of Title 12, Banks and Banking, and section 82h of Title 31, Money and Finance, and in so far as it amended provisions of Title I, II, and IV of the Bankhead-Jones Farm Tenant Act, was repealed by section 341(a) of Pub. L. 87-128, and is now covered by this chapter.

The Bankhead-Jones Farm Tenant Act, as amended, referred to in the opening par., is act July 22, 1937, ch. 517, 50 Stat. 522, as amended. Title III of act July 22, 1937, as amended, is classified to sections 1010 to 1012 and 1013a of this title. Titles I, II, and IV of act July 22, 1937, as amended, were formerly classified to sections 1001 to 1005, 1005a to 1005d, 1006, 1006c to 1006e, 1007, 1008, 1009, 1014 to 1025, 1026, and 1027 to 1029 of this title, respectively, were repealed by section 341(a) of Pub. L. 87-128, and are now covered by this chapter.

The act of August 28, 1937, as amended, referred to in the opening par., is act Aug. 28, 1937, ch. 870, 50 Stat. 869, as amended, which was formerly classified to sections 590r to 590x-4 of Title 16, Conservation, was repealed by section 341(a) of Pub. L. 87-128, and is now covered by this chapter.

The act of April 6, 1949, as amended, referred to in the opening par., is act Apr. 6, 1949, ch. 49, 63 Stat. 43, as amended, which was formerly classified to sections 1148a-1 to 1148a-3 of Title 12, Banks and Banking, was repealed by section 341(a) of Pub. L. 87-128, and is now covered by this chapter.

The act of August 31, 1954, as amended, referred to in the opening par., is act Aug. 31, 1954, ch. 1145, 68 Stat. 999, which was formerly classified as a note under section 1148a-1 of Title 12, Banks and Banking, was repealed by section 341(a) of Pub. L. 87-128, and is now covered by this chapter.

The civil service laws, referred to in opening par., are set forth in Title 5, Government Organization and Employees. See, particularly, section 3301 et seq. of that title.

This Act, referred to in par. (c), refers to the Agricultural Act of 1961, Pub. L. 87-128. For classification of this Act in the Code, see Short Title note under section 1911 of this title.

Section 14 of title 6, referred to in par. (g), was repealed by Pub. L. 92-310, title II, § 203(1), June 6, 1972, 86 Stat. 202. For present provisions relating to surety bonds of Federal personnel, see section 1201 et seq. of Title 31, Money and Finance.

CODIFICATION

In the opening par., "chapter 51 and subchapter III of chapter 53 of title 5" was substituted for "the Classification Act of 1949, as amended" on authority of section 7(b) of Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 631, section 1 of which enacted Title 5, Government Organization and Employees.

AMENDMENTS

1972—Par. (a). Pub. L. 92-419, § 124(1), authorized the Secretary of Agriculture, until Jan. 1, 1975, to make contracts for services incident to making, insuring, collecting, and servicing loans and property as determined by the Secretary to be necessary for carrying out the purposes of this chapter, and required the Secretary, prior to June 30, 1974, to report to Congress through the President on the experience in using such contracts, together with recommendations for such legislation as he may see fit.

Pars. (d) to (i). Pub. L. 92-419, § 124(2), substituted a semicolon for a period at end of lettered pars. (d), (e) and (f) and added pars. (g) to (i).

1968—Par. (f). Pub. L. 90-488 added par. (f).

§ 1982. County committees

(a) Appointment; term; alternates; removal for cause

The Secretary is authorized and directed to appoint in each county or area in which activities are carried on under this chapter, a county committee composed of three individuals residing in the county or area, at least two of whom at the time of appointment shall be farmers deriving the principal part of their income from farming. Committee appointments shall be for a term of three years except that the first appointments for any new committee shall be for one-, two-, and three-year periods, respectively, so as to provide continuity of committee membership. The Secretary may appoint alternate committeemen. The members of the committee and their alternates shall be removable for cause by the Secretary.

(b) Compensation; travel expenses

The rates of compensation, the number of days per month each member may be paid, and the amount to be allowed for necessary travel and subsistence expenses, shall be determined and paid by the Secretary.

(c) Meetings; quorum; procedure; duties; supplies; personnel

The committee shall meet on the call of the chairman elected by the committee or on the call of such other person as the Secretary may designate. Two members of the committee shall constitute a quorum. The Secretary shall prescribe rules governing the procedure of the committees and their duties, furnish forms and equipment necessary, and authorize and provide for the compensation of such clerical assistance as he finds may be required by any committee.

(Pub. L. 87-128, title III, § 332, Aug. 8, 1961, 75 Stat. 314.)

REFERENCES IN TEXT

In the original "this chapter", referred to in subsec. (a), read "this title", meaning the Consolidated Farm and Rural Development Act, title III of Pub. L. 87-128,

as amended. For classification of this title in the Code, see Short Title note under section 1921 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1981 of this title.

§ 1983. Special conditions and limitations on loans

In connection with loans made or insured under this chapter, the Secretary shall require—

(a) the applicant to certify in writing, and the Secretary shall determine, that he is unable to obtain sufficient credit elsewhere to finance his actual needs at reasonable rates and terms, taking into consideration prevailing private and cooperative rates and terms in the community in or near which the applicant resides for loans for similar purposes and periods of time;

(b) except for loans under sections 1926, 1932, 1944 and 1961(b)(2) of this title, the county committee to certify in writing that the applicant meets the eligibility requirements for the loan, and has the character, industry, and ability to carry out the proposed operations, and will, in the opinion of the committee, honestly endeavor to carry out his undertakings and obligations; and for loans under section 1961(b)(2) of this title the Secretary shall require the recommendation of the county committee as to the making or insuring of the loan;

(c) an agreement by the borrower that if at any time it shall appear to the Secretary that the borrower may be able to obtain a loan from a production credit association, a Federal land bank, or other responsible cooperative or private credit source, at reasonable rates and terms for loans for similar purposes and periods of time, the borrower will, upon request by the Secretary, apply for and accept such loan in sufficient amount to repay the Secretary or the insured lender, or both, and to pay for any stock necessary to be purchased in a cooperative lending agency in connection with such loan;

(d) such provision for supervision of the borrower's operations as the Secretary shall deem necessary to achieve the objectives of the loan and protect the interests of the United States; and

(e) the applications of veterans for loans under subchapter I or II of this chapter to be given preference over similar applications of nonveterans on file in any county or area office at the same time. Veterans as used herein shall mean persons who served in the Armed Forces of the United States during any war between the United States and any other nations, during the Korean conflict or the Vietnam era and who were discharged or released therefrom under conditions other than dishonorable.

(Pub. L. 87-128, title III, § 333, Aug. 8, 1961, 75 Stat. 314; Pub. L. 90-488, § 12, Aug. 15, 1968, 82 Stat. 771; Pub. L. 91-620, § 3, Dec. 31, 1970, 84 Stat. 1862; Pub. L. 92-419, title I, §§ 118(b), 125, 126, Aug. 30, 1972, 86 Stat. 663, 666.)

REFERENCES IN TEXT

In the original "this chapter", referred to in introductory clause and par. (e), read "this title", meaning the Consolidated Farm and Rural Development Act, title III of Pub. L. 87-128, as amended. For classification of this title in the Code, see Short Title note under section 1921 of this title.

AMENDMENTS

1972—Par. (a). Pub. L. 92-419, § 125, inserted ", and the Secretary shall determine," after "in writing".

Par. (b). Pub. L. 92-419, §§ 118(b), 126, inserted reference to section 1932 of this title and substituted "section 1961(b)(2) of this title" for "said sections", respectively.

1970—Pub. L. 91-620 included persons who served during the Vietnam era within the definition of "Veterans" in par. (e).

1968—Par. (b). Pub. L. 90-488 struck out "farming" from the phrase "proposed farming operations".

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1922, 1932 of this title.

§ 1984. Taxation

All property subject to a lien held by the United States or the title to which is acquired or held by the Secretary under this chapter other than property used for administrative purposes shall be subject to taxation by State, territory, district, and local political subdivisions in the same manner and to the same extent as other property is taxed: *Provided, however,* That no tax shall be imposed or collected on or with respect to any instrument if the tax is based on—

(1) the value of any notes or mortgages or other lien instruments held by or transferred to the Secretary;

(2) any notes or lien instruments administered under this chapter which are made, assigned, or held by a person otherwise liable for such tax; or

(3) the value of any property conveyed or transferred to the Secretary,

whether as a tax on the instrument, the privilege of conveying or transferring or the recordation thereof; nor shall the failure to pay or collect any such tax be a ground for refusal to record or file such instruments, or for failure to impart notice, or prevent the enforcement of its provisions in any State or Federal court.

(Pub. L. 87-128, title III, § 334, Aug. 8, 1961, 75 Stat. 315.)

REFERENCES IN TEXT

In the original "this chapter", referred to in text, read "this title", meaning the Consolidated Farm and Rural Development Act, title III of Pub. L. 87-128, as amended. For classification of this title in the Code, see Short Title note under section 1921 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 25 section 492.

§ 1985. Security servicing; operation or lease of realty; disposition of surplus property; conveyance of complete interest of United States; easements; condemnations

(a) The Secretary is authorized and empowered to make advances, without regard to any loan or total indebtedness limitation, to preserve and protect the security for or the lien or priority of the lien securing any loan or other indebtedness owing to, insured by, or acquired by the Secretary under this chapter or under

any other programs administered by the Farmers Home Administration; to bid for and purchase at any execution, foreclosure, or other sale or otherwise to acquire property upon which the United States has a lien by reason of a judgment or execution arising from, or which is pledged, mortgaged, conveyed, attached, or levied upon to secure the payment of, any such indebtedness whether or not such property is subject to other liens, to accept title to any property so purchased or acquired; and to sell, manage, or otherwise dispose of such property as hereinafter provided.

(b) Real property administered under the provisions of this chapter may be operated or leased by the Secretary for such period or periods as the Secretary may deem necessary to protect the Government's investment therein.

(c) The Secretary may determine whether real property administered under this chapter is suitable for disposition to persons eligible for assistance under the provisions of any law administered by the Farmers Home Administration. Any property which the Secretary determines to be suitable for such purposes shall, whenever practicable, be sold by the Secretary as expeditiously as possible to such eligible persons in a manner consistent with such provisions. Real property which is not determined suitable for sale to such eligible persons or which has not been purchased by such persons within a period of three years from the date of acquisition, shall be sold by the Secretary after public notice at public sale and, if no acceptable bid is received then by negotiated sale, at the best price obtainable for cash or on secured credit without regard to the laws governing the disposition of excess or surplus property of the United States. The terms of such sale shall require an initial downpayment and the remainder of the sales price payable in installments with interest on unpaid balance at the rate determined by the Secretary, but not in any event at rates and terms more favorable than those legally permissible for eligible borrowers. Any conveyances under this section shall include all of the interest of the United States, including mineral rights.

(d) With respect to any real property administered under this chapter, the Secretary is authorized to grant or sell easements or rights-of-way for roads, utilities, and other appurtenances not inconsistent with the public interest. With respect to any rights-of-way over land on which the United States has a lien administered under this chapter, the Secretary may release said lien upon payment to the United States of adequate consideration, and the interest of the United States arising under any such lien may be acquired for highway purposes by any State or political subdivision thereof in condemnation proceedings under State law by service by certified mail upon the United States attorney for the district, the State Director of the Farmers Home Administration for the State in which the farm is located, and the Attorney General of the United States: *Provided, however,* That the United States shall not be required to appear, answer, or respond to any notice or writ sooner than ninety days from the time such notice or writ is returnable or purports to be effective, and the taking or vesting of title to the interest of the United States shall not become final under any proceeding, order, or decree until adequate compensation and damages have been finally determined and paid to the United States or into the registry of the court.

(Pub. L. 87–128, title III, § 335, Aug. 8, 1961, 75 Stat. 315; Pub. L. 92–419, title I, § 127, Aug. 30, 1972, 86 Stat. 666.)

REFERENCES IN TEXT

In the original "this chapter", referred to in subsecs. (a) to (d), read "this title", meaning the Consolidated Farm and Rural Development Act, title III of Pub. L. 87–128, as amended. For classification of this title in the Code, see Short Title note under section 1921 of this title.

AMENDMENTS

1972—Subsec. (c). Pub. L. 92–419 substituted "the provisions of any law administered by the Farmers Home Administration" for "subchapter I of this chapter" in first sentence and "such provisions" for "the provisions of subchapter I of this chapter" in second sentence, deleted from fourth sentence initial minimum 20 per centum downpayment requirement and provision for payment of remainder in not more than five annual installments, and provided in such fourth sentence for interest rates and terms not more favorable than legally permissible for eligible borrowers.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1929a of this title.

§ 1986. Conflicts of interests

No officer, attorney, or other employee of the Secretary shall, directly or indirectly, be the beneficiary of or receive any fee, commission, gift, or other consideration for or in connection with any transaction or business under this chapter other than such salary, fee, or other compensation as he may receive as such officer, attorney, or employee. No member of a county committee shall knowingly make or join in making any certification with respect to a loan to purchase any land in which he or any person related to him within the second degree of consanguinity or affinity has or may acquire any interest or with respect to any applicant related to him within the second degree of consanguinity or affinity. Any persons violating any provision of this section shall, upon conviction thereof, be punished by a fine of not more than $2,000 or imprisonment for not more than two years, or both.

(Pub. L. 87–128, title III, § 336, Aug. 8, 1961, 75 Stat. 316.)

REFERENCES IN TEXT

In the original "this chapter", referred to in text, read "this title", meaning the Consolidated Farm and Rural Development Act, title III of Pub. L. 87–128, as amended. For classification of this title in the Code, see Short Title note under section 1921 of this title.

CROSS REFERENCES

Felony defined, see section 1 of Title 18, Crimes and Criminal Procedure.

§ 1987. Debt adjustment and credit counseling

The Secretary may provide voluntary debt adjustment assistance between farmers and their creditors and may cooperate with State,

territorial, and local agencies and committees engaged in such debt adjustment, and may give credit counseling.

(Pub. L. 87-128, title III, § 337, Aug. 8, 1961, 75 Stat. 316.)

§ 1988. Authorization of appropriations; notes; Farmers Home Administration direct loan account; sales of notes; allocation of loans

(a) Authorization

There is authorized to be appropriated to the Secretary such sums as the Congress may from time to time determine to be necessary to enable the Secretary to carry out the purposes of this chapter and for the administration of assets transferred to the Farmers Home Administration.

(b) Notes; form and denominations; maturities; terms and conditions; interest rate; purchase by Treasury; public debt transaction

When authorized by Congress, the Secretary is authorized to make and issue notes to the Secretary of the Treasury for the purpose of obtaining funds in such amounts as the Congress may approve annually in appropriation Acts for making direct loans under this chapter. Such notes shall be in such form and denominations and have such maturities and be subject to such terms and conditions as may be prescribed by the Secretary with the approval of the Secretary of the Treasury. Such notes shall bear interest at a rate fixed by the Secretary of the Treasury, taking into consideration the current average market yields of outstanding marketable obligations of the United States having maturities comparable to the notes issued by the Secretary under this chapter. The Secretary of the Treasury is authorized and directed to purchase any notes of the Secretary issued hereunder, and for that purpose the Secretary of the Treasury is authorized to use as a public debt transaction the proceeds from the sale of any securities issued under the Second Liberty Bond Act, as amended, and the purposes for which such securities may be issued under such Act, as amended, are extended to include the purchase of notes issued by the Secretary. All redemptions, purchases, and sales by the Secretary of the Treasury of such notes shall be treated as public debt transactions of the United States.

(c) Farmers Home Administration direct loan account; deposits; liabilities; obligations; expenditures; net expenditure basis of budgeting

The appropriations for loans made under the authority of subsection (a) of this section and funds obtained in accordance with subsection (b) of this section, and the unexpended balances of any funds made available for loans under the item "Farmers Home Administration" in the Department of Agriculture Appropriation Acts current on August 8, 1961, shall be merged into a single account known as the "Farmers Home Administration direct loan account", hereafter in this section called the "direct loan account". All claims, notes, mortgages, property, including those now held by the Secretary on behalf of the Secretary of the Treasury, and all collections therefrom, made or held under the direct loan provisions of (1) titles I, II, and IV of the Bankhead-Jones Farm Tenant Act, as amended; (2) the Farmers Home Administration Act of 1946, as amended, except the assets of the rural rehabilitation corporations; (3) the Act of August 28, 1937 (50 Stat. 869), as amended; (4) the item "Loans to Farmers—1948 Flood Damage" in the Act of June 25, 1948 (62 Stat. 1038); (5) the item "Loans to Farmers (Property Damage)" in the Act of May 24, 1949 (63 Stat. 82); (6) the Act of September 6, 1950 (64 Stat. 769); (7) the Act of July 11, 1956 (70 Stat. 525); (8) section 8 of the Watershed Protection and Flood Prevention Act, as amended [16 U.S.C. 1006a]; (9) section 32(e) of the Bankhead-Jones Farm Tenant Act, as amended [7 U.S.C. 1011(e)]; and (10) under this chapter shall be held for and deposited in said account.

The notes of the Secretary issued to the Secretary of the Treasury under said Acts or under this chapter and all other liabilities against the appropriations or assets in the direct loan account shall be liabilities of said account, and all other obligations against such appropriations or assets shall be obligations of said account. Moneys in the direct loan account shall also be available for interest and principal repayments on notes issued by the Secretary to the Secretary of the Treasury. Otherwise, the balances in said account shall remain available to the Secretary for direct loans under subchapters I or II of this chapter, section 8 of the Watershed Protection and Flood Prevention Act, as amended [16 U.S.C. 1006a], and section 32(e) of the Bankhead-Jones Farm Tenant Act, as amended [7 U.S.C. 1011(e)], and for advances in connection therewith, not to exceed any existing appropriation or authorization limitations and in such further amounts as the Congress from time to time determines in appropriation Acts. The amounts so authorized for loans and advances shall remain available until expended. Subject to the foregoing limitations, the use of collections deposited in the account may be authorized by the Congress in lieu or partially in lieu of authorizing the issuing of additional notes by the Secretary to the Secretary of the Treasury, and the account shall be budgeted on a net expenditure basis.

(d) Sale of notes and mortgages

The Secretary may sell and assign any notes and mortgages in the direct loan account with the consent of the borrower or without such consent when the borrower has failed to comply with his agreement to refinance the indebtedness at the request of the Secretary. Such loans may be sold at the balance due thereon or on such other basis as the Secretary may determine from time to time.

(e) Distribution of real estate loans among States

At least 25 per centum of the sums authorized in any fiscal year for direct loans to individuals to be made by the Secretary under subchapter I of this chapter shall be allocated equitably among the several States and territories on the basis of farm population and the prevalence of tenancy, as determined by the Secretary.

(Pub. L. 87-128, title III, § 338, Aug. 8, 1961, 75 Stat. 316; Pub. L. 89-429, § 5, May 24, 1966, 80 Stat. 167.)

REFERENCES IN TEXT

In the original "this chapter", referred to in subsecs. (a), (b), (c), and (e), read "this title", meaning the Consolidated Farm and Rural Development Act, title III of Pub. L. 87-128, as amended. For classification of this title in the Code, see Short Title note under section 1921 of this title.

The Second Liberty Bond Act, as amended, referred to in subsec. (b), is act Sept. 24, 1917, ch. 56, 40 Stat. 288, as amended. For classification of this Act in the Code, see References in Text note set out under section 774 of Title 31, Money and Finance, and Tables volume.

Such Act, as amended, referred to in subsec. (b), refers to the Second Liberty Bond Act, as amended.

Titles I, II, and IV of the Bankhead-Jones Farm Tenant Act, as amended, referred to in subsec. (c)(1), refer to titles I, II, and IV of act July 22, 1937, ch. 517, 50 Stat. 522, as amended, which were formerly classified to sections 1001 to 1005, 1005a to 1005d, 1006, 1006c to 1006e, 1007, 1008, 1009; and 1014 to 1025, 1026, 1027 to 1029 of this title, respectively, were repealed by section 341(a) of Pub. L. 87-128, and are now covered by this chapter.

The Farmers Home Administration Act of 1946, as amended, referred to in subsec. (c)(2), refers to act Aug. 14, 1946, ch. 964, 60 Stat. 1062, as amended, which was classified to former sections 1001 to 1005, 1005a to 1005d, 1007, 1008, 1009, 1015 to 1029, and sections 1030, 1031 of this title; section 371 of Title 12, Banks and Banking; and section 82h of Title 31, Money and Finance, and in so far as it amended provisions of titles I, II, and IV of the Bankhead-Jones Farm Tenant Act, was repealed by section 341(a) of Pub. L. 87-128, and is now covered by this chapter.

The Act of August 28, 1937 (50 Stat. 869), as amended, referred to in subsec. (c)(3), was formerly classified to sections 590r to 590x-4 of Title 16, Conservation, was repealed by section 341(a) of Pub. L. 87-128, and is now covered by this chapter.

Act June 25, 1948 (62 Stat. 1038), referred to in subsec. (c)(4), refers to a provision of the Second Deficiency Appropriation Act, 1948 (act June 25, 1948, ch. 658, 62 Stat. 1027), which provision was not classified to the Code.

Act May 24, 1949 (63 Stat. 82), referred to in subsec. (c)(5), refers to a provision of the First Deficiency Appropriation Act, 1949 (act May 24, 1949, ch. 138, 63 Stat. 76), which provision was not classified to the Code.

The Act of September 6, 1950 (64 Stat. 769), referred to in subsec. (c)(6), is classified to sections 1033, 1033 note, 1034, 1035, former section 1036, and sections 1037 to 1039 of this title.

The Act of July 11, 1956 (70 Stat. 525), referred to in subsec. (c)(7), refers to a provision transferring certain responsibilities of the Secretary of the Interior to the Secretary of Agriculture, among other provisions (act July 11, 1956, ch. 565, 70 Stat. 525), which provision was not classified to the Code.

AMENDMENTS

1966—Subsec. (c). Pub. L. 89-429 inserted references to section 8 of the Watershed Protection and Flood Prevention Act, as amended, and section 32(e) of the Bankhead-Jones Farm Tenant Act, as amended.

ABOLITION OF FARMERS HOME ADMINISTRATION DIRECT LOAN ACCOUNT

The Farmers Home Administration direct loan account, created by subsec. (c) of this section, was abolished and its assets and liabilities transferred to the Agricultural Credit Insurance Fund by section 1929 of this title.

LOANS TO INDIANS

Authority of the Secretary of Agriculture to make loans to Indian tribes and tribal corporations to acquire land within reservations, see sections 488 to 492 of Title 25, Indians.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1929 of this title; title 25 section 488.

§ 1989. Rules and regulations; delegation of powers

The Secretary is authorized to make such rules and regulations, prescribe the terms and conditions for making or insuring loans, security instruments and agreements, except as otherwise specified herein, and make such delegations of authority as he deems necessary to carry out this chapter.

(Pub. L. 87-128, title III, § 339, Aug. 8, 1961, 75 Stat. 318.)

REFERENCES IN TEXT

In the original "this chapter", referred to in text, read "this title", meaning the Consolidated Farm and Rural Development Act, title III of Pub. L. 87-128, as amended. For classification of this title in the Code, see Short Title note under section 1921 of this title.

§ 1990. Transfer of lands to Secretary

The President may at any time in his discretion transfer to the Secretary any right, interest, or title held by the United States in any lands acquired in the program of national defense and no longer needed therefor, which the President shall find suitable for the purposes of this chapter, and the Secretary shall dispose of such lands in the manner and subject to the terms and conditions of the chapter.

(Pub. L. 87-128, title III, § 340, Aug. 8, 1961, 75 Stat. 318.)

REFERENCES IN TEXT

In the original "this chapter", referred to in text, read "this title", meaning the Consolidated Farm and Rural Development Act, title III of Pub. L. 87-128, as amended. For classification of this title in the Code, see Short Title note under section 1921 of this title.

DELEGATION OF FUNCTIONS

Authority of the President under this section in his discretion to transfer to the Secretary of Agriculture any right, interest or title held by the United States in any lands acquired in the program of national defense and no longer needed for that program, and to determine the suitability of the lands to be transferred, for the purposes referred to in this section, delegated to the Administrator of General Services, provided, that the exercise by the Administrator of the authority delegated to him herein shall require the concurrence of the Secretary of Defense as to the absence of further need of the lands for the national defense program, see section 1(15) of Ex. Ord. No. 11609, July 22, 1971, 36 F.R. 13747, set out as a note under section 301 of Title 3, The President.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 25 section 492.

§ 1991. Definitions

As used in this chapter (1) the term "farmers" shall be deemed to include persons who are engaged in, or who, with assistance afforded under this chapter, intend to engage in, fish farming, (2) the term "farming" shall be deemed to include fish farming, (3) the word "insure" as used in this chapter includes guarantee, which means to guarantee the payment of a loan originated, held, and serviced by a private financial agency or other lender approved

by the Secretary, and (4) the term "contract of insurance" includes a contract of guarantee.

(Pub. L. 87-128, title III, § 343, as added Pub. L. 87-703, title IV, § 401(5), Sept. 27, 1962, 76 Stat. 632, and amended Pub. L. 89-586, Sept. 19, 1966, 80 Stat. 809; Pub. L. 92-419, title I, § 128(a), Aug. 30, 1972, 86 Stat. 666.)

REFERENCES IN TEXT

In the original "this chapter", referred to in text, read "this title", meaning the Consolidated Farm and Rural Development Act, title III of Pub. L. 87-128, as amended. For classification of this title in the Code, see Short Title note under section 1921 of this title.

AMENDMENTS

1972—Pub. L. 92-419 added clauses 3 and 4.

1966—Pub. L. 89-586 deleted "and" before "(2)" and inserted "and (3) the term 'owner-operator' shall in the State of Hawaii include the lessee-operator of real property in any case in which the Secretary determines that the land cannot be acquired in fee simple by the applicant, adequate security is provided for the loan, and there is a reasonable probability of accomplishing the objectives and repayment of the loan: *Provided*, That item (3) shall be applicable to lessee-operators of Hawaiian Homes Commission lands only when and to the extent that it is possible for such lessee-operators to meet the conditions therein set out." See Effective and Termination Date of 1966 Amendment note under this section.

EFFECTIVE AND TERMINATION DATE OF 1966 AMENDMENT

Pub. L. 89-586, as amended by Pub. L. 90-426, July 26, 1968, 82 Stat. 445, provided in part that the amendment of this section by Pub. L. 89-586 shall be effective only for the period of time commencing with Sept. 19, 1966, and ending on June 30, 1970.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 25 section 492.

§ 1992. Loan limitations

No loan (other than one to a public body or nonprofit association (including Indian tribes on Federal and State reservations or other federally recognized Indian tribal groups) for community facilities or one of a type authorized by section 1926(a)(1) of this title prior to its amendment by the Rural Development Act of 1972) shall be made by the Secretary either for sale as an insured loan or otherwise under sections 1924(b), 1926(a)(1), 1932, 1942(b), or 1942(c) of this title unless the Secretary shall have determined that no other lender is willing to make such loan and assume 10 per centum of any loss sustained thereon. No contract guaranteeing any such loan by such other lender shall require the Secretary to guarantee more than 90 per centum of the principal and interest on such loan.

(Pub. L. 87-128, title III, § 344, as added Pub. L. 92-419, title I, § 129, Aug. 30, 1972, 86 Stat. 667, and amended Pub. L. 94-35, § 2, June 16, 1975, 89 Stat. 214.)

REFERENCES IN TEXT

For statutory changes to section 1926(a)(1) of this title by the Rural Development Act of 1972, referred to in the text, see 1972 Amendment note for section 104 of Pub. L. 92-419, set out under section 1926 of this title. For classification of Rural Development Act of 1972 in the Code, see Short Title note under section 1929a of this title.

AMENDMENTS

1975—Pub. L. 94-35 substituted "guaranteed more than 90 per centum of the principal and interest on such loan" for "participate in more than 90 per centum of any loss sustained thereon".

§ 1993. Testimony before Congressional Committees

On or before February 15 of each calendar year beginning with calendar year 1976, or such other date as may be specified by the appropriate Committee, the Secretary of Agriculture shall testify before the Senate Committee on Agriculture, Nutrition, and Forestry and the House Committee on Agriculture and provide justification in detail of the amount requested in the budget to be appropriated for the next fiscal year for the purposes authorized in this chapter and of the amounts estimated to be utilized during such fiscal year from the Agricultural Credit Insurance Fund and the Rural Development Insurance Fund.

(Pub. L. 87-128, title III, § 345, as added Pub. L. 94-68, § 9, Aug. 5, 1975, 89 Stat. 382, and amended S. Res. 4, Feb. 4, 1977.)

REFERENCES IN TEXT

In the original "this chapter", referred to in text, read "the Consolidated Farm and Rural Development Act, as amended". For classification of this Act in the Code, see Short Title note under section 1921 of this title.

CHANGE OF NAME

The Committee on Agriculture and Forestry of the Senate was abolished and replaced by the Committee on Agriculture, Nutrition, and Forestry of the Senate, effective Feb. 11, 1977. See Rule XXV of the Standing Rules of the Senate, as amended by Senate Resolution 4 (popularly cited as the "Committee System Reorganization Amendments of 1977"), approved Feb. 4, 1977.

CHAPTER 51—FOOD STAMP PROGRAM

Sec.

2011. Congressional declaration of policy.
2012. Definitions.
2013. Establishment of program.
(a) Use of coupons; redeemability.
(b) Distribution of federally donated foods.
(c) Regulations.
2014. Eligibility standards.
(a) Income and other financial resources of households as substantial limiting factors.
(b) Uniform national standards; minimum criteria; payments in kind received from an employer by household members; income tax dependency claims; temporary emergency standards for duration of emergency; special standards for Puerto Rico, Guam and Virgin Islands.
(c) Employment of able-bodied adults; excepted persons; refusal of work during strike or lockout; definition.
(d) Uniform national standards for households containing any narcotics addict or alcoholic.
2015. Coupons.
(a) Issuance.
(b) Inventory monitoring procedures; regulations; reports to Secretary; penalties.

Sec.

(c) Delivery, custody, care, and storage procedures; regulations; penalties.
(d) Approved food stores; usage.
(e) Design.
2016. Value of coupon allotment.
(a) Cost of nutritionally adequate diet; annual adjustments.
(b) Charges to households.
(c) Tax exemptions and other considerations.
(d) Disposition of funds; regulations; penalties; vendors as fiduciaries of Federal Government; notice of deposit; voucher; reports to Secretary by vendors and State agencies; deposit of funds collected by United States Postal Service.
2017. Approval of retail food stores and wholesale food concerns.
(a) Applications; qualifications of applicants; factors considered; issuance of certificate.
(b) Submission of information by stores and concerns; disclosure of information.
(c) Hearing on refusal.
2018. Redemption of coupons.
2019. Administration of program.
(a) Efforts to insure participants obtain needed foods; foods in abundant or surplus supply; cooperation of Federal, State, local and private agencies.
(b) Responsibility of State agency for certification of applicants and issuance of coupons; records; inspection and audit.
(c) Period of validity of certification upon removal from one political subdivision to another; prohibition against discrimination.
(d) Welfare grants.
(e) State plan of operation; submission; contents; time for submission and approval.
(f) Compliance; withholding issuance of coupons.
(g) Negligence or fraud.
(h) Meal purchases by members of an eligible household sixty years of age or over or an elderly person and his spouse; terms and conditions.
(i) Meal purchases by members of an eligible household who are narcotics addicts or alcoholics; terms and conditions.
2020. Disqualification of retail stores and wholesale concerns.
2021. Determination and disposition of claims.
2022. Administrative and judicial review.
2023. Violations and enforcement; issuance or presentment for redemption of coupons; penalties; coupons as obligations of United States.
2024. State financing of administrative costs; Federal payments to State agencies; reports on effectiveness of administration of Food Stamp Program; qualified personnel.
2025. Authorization of appropriations; limitation of coupon value; deposit of funds; nature of expenditures; reports to Congress.
2026. Purchase with coupons of hunting and fishing equipment for procuring food by members of eligible households living in Alaska; rules and regulations.

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in title 42 section 5179; title 43 section 1626.

§ 2011. Congressional declaration of policy

It is hereby declared to be the policy of Congress, in order to promote the general welfare, that the Nation's abundance of food should be utilized cooperatively by the States, the Federal Government, local governmental units, and other agencies to safeguard the health and well-being of the Nation's population and raise levels of nutrition among low-income households. The Congress hereby finds that the limited food purchasing power of low-income households contributes to hunger and malnutrition among members of such households. The Congress further finds that increased utilization of food in establishing and maintaining adequate national levels of nutrition will promote the distribution in a beneficial manner of our agricultural abundances and will strengthen our agricultural economy, as well as result in more orderly marketing and distribution of food. To alleviate such hunger and malnutrition, a food stamp program is herein authorized which will permit low-income households to purchase a nutritionally adequate diet through normal channels of trade.

(Pub. L. 88-525, § 2, Aug. 31, 1964, 78 Stat. 703; Pub. L. 91-671, § 1, Jan. 11, 1971, 84 Stat. 2048.)

AMENDMENTS

1971—Pub. L. 91-671 provided for cooperation in utilization of Nation's abundance of food by other agencies, deleted "to the maximum extent practicable" preceding "to safeguard the health", enunciated finding that limited food purchasing power of low-income households contributes to hunger and malnutrition, and substituted "promote the distribution" for "will tend to cause the distribution" and authorization of a program (to alleviate hunger and malnutrition) which will permit low-income households to purchase a nutritionally adequate diet through normal channels of trade for prior authorization of a program (to effectuate policy of Congress and purposes of this chapter) which will permit such households to receive a greater share of Nation's abundance of food.

SHORT TITLE OF 1976 AMENDMENT

Pub. L. 94-339, § 1, July 5, 1976, 90 Stat. 799, provided: "That this Act [which amended sections 2012, 2015, and 2016 of this title] may be cited as the 'Emergency Food Stamp Vendor Accountability Act of 1976'."

SHORT TITLE

Section 1 of Pub. L. 88-525 provided that Pub. L. 88-525, comprising this chapter, may be cited as "The Food Stamp Act of 1964".

§ 2012. Definitions

As used in this chapter—

(a) The term "Secretary" means the Secretary of Agriculture.

(b) The term "food" means any food or food product for home consumption except alcoholic beverages and tobacco and shall also include seeds and plants for use in gardens to produce food for the personal consumption of the eligible household.

(c) The term "coupon" means any coupon, stamp, or type of certificate issued pursuant to the provisions of this chapter.

(d) The term "coupon allotment" means the total value of coupons to be issued to a household during each month or other time period.

(e) The term "household" shall mean a group of related individuals (including legally adopted children and legally assigned foster children) or non-related individuals over age 60 who are not residents of an institution or boarding house, but are living as one economic unit sharing common cooking facilities and for whom food is customarily purchased in common. The term "household" shall also mean (1) a single individual living alone who has cooking facilities and who purchases and prepares food for home consumption, (2) an elderly person who meets the requirements of section 2019(h) of this title, or (3) any narcotics addict or alcoholic who lives under the supervision of a private nonprofit organization or institution for the purpose of regular participation in a drug or alcoholic treatment and rehabilitation program. No individual who receives supplemental security income benefits under title XVI of the Social Security Act [42 U.S.C. 1381 et seq.] shall be considered to be a member of a household or an elderly person for any purpose of this chapter for any month if such person receives for such month, as part of his supplemental security income benefits or payments described in section 1616(a) of the Social Security Act [42 U.S.C. 1382e(a)] (if any), an amount equal to the bonus value of food stamps (according to the Food Stamp Schedule effective for July 1973) in addition to the amount of assistance such individual would be entitled to receive for such month under the provisions of the plan of the State approved under title I, X, XIV, or XVI, as appropriate, in effect for December 1973, assuming such plan were in effect for such month and such individual were aged, blind, or disabled, as the case may be, under the provisions of such State plan or under Public Law 92-603 as amended. The Secretary of Health, Education, and Welfare shall issue regulations for the implementation of the foregoing sentence after consultation with the Secretary of Agriculture. Residents of federally subsidized housing for the elderly, built under either section 202 of the Housing Act of 1959 [12 U.S.C. 1701q], or section 236 of the National Housing Act [12 U.S.C. 1715z-1] shall not be considered residents of an institution or boarding house for purposes of eligibility for food stamps under this chapter.

(f) The term "retail food store" means an establishment, including a recognized department thereof, or a house-to-house trade route which sells food to households for home consumption. It shall also mean a political subdivision or a private nonprofit organization or institution that meets the requirements of section 2019(h) or 2019(i) of this title.

(g) The term "wholesale food concern" means an establishment which sells food to retail food stores for resale to households.

(h) The term "State agency," with respect to any State, means the agency of State government which is designated by the Secretary for purposes of carrying out this chapter in such State.

(i) The term "bank" means member or nonmember banks of the Federal Reserve System.

(j) The term "State" means the fifty States and the District of Columbia, Guam, Puerto Rico, and the Virgin Islands of the United States.

(k) The term "food stamp program" means any program promulgated pursuant to the provisions of this chapter.

(*l*) The term "elderly person" shall mean a person sixty years of age or over who is not a resident of an institution or boarding house, and who is living alone, or with spouse, whether or not he has cooking facilities in his home.

(m) The term "authorization to purchase card" means any document issued by the State agency to an eligible household which shows the face value of the coupon allotment the household is entitled to be issued on presentment of such document and the amount to be paid by such household for such allotment.

(n) The term "drug addiction or alcoholic treatment and rehabilitation program" means any drug addiction or alcoholic treatment and rehabilitation program conducted by a private nonprofit organization or institution which is certified by the State agency or agencies designated by the Governor as responsible for the administration of the State's programs for alcoholics and drug addicts pursuant to Public Law 91-616 "Comprehensive Alcohol Abuse and Alcohol Prevention, Treatment, and Rehabilitation Act" [42 U.S.C. 4541 et seq.] and Public Law 92-255 "Drug Abuse Office and Treatment Act of 1972" [21 U.S.C. 1101 et seq.] as providing treatment that can lead to the rehabilitation of drug addicts or alcoholics.

(o) The term "coupon vendor" means any person, partnership, corporation, organization, political subdivision, or other entity with which a State agency has contracted for, or to which it has delegated administrative responsibility in connection with, the issuance of coupons to households.

(Pub. L. 88-525, § 3, Aug. 31, 1964, 78 Stat. 703; Pub. L. 91-671, § 2, Jan. 11, 1971, 84 Stat. 2048; Pub. L. 92-603, title IV, § 411(a), (b), Oct. 30, 1972, 86 Stat. 1491; Pub. L. 93-86, § 3(a)-(c), (*l*), (o), (p), Aug. 10, 1973, 87 Stat. 246, 248, 249; Pub. L. 93-125, § 1(h), Oct. 18, 1973, 87 Stat. 450; Pub. L. 94-339, § 4, July 5, 1976, 90 Stat. 801.)

DEFINITION OF "HOUSEHOLD" FOR PERIOD ENDING JUNE 30, 1977

Pub. L. 93-233, § 8(a), Dec. 30, 1973, 87 Stat. 956, as amended by Pub. L. 93-335, § 1(a), (b), July 8, 1974, 88 Stat. 291; Pub. L. 94-44, § 3, June 28, 1975, 89 Stat. 235; Pub. L. 94-365, § 2, July 14, 1976, 90 Stat. 990, provided that, effective for the period ending June 30, 1977, section 3(e) of the Food Stamp Act of 1964 [subsec. (e) of this section], should read as it did before amendment by Pub. L. 92-603 and Pub. L. 93-86 but with the addition of a new sentence at the end, and that section 3(b) of Pub. L. 93-86, which had substituted provisions relating to the treatment of individuals receiving supplemental security income benefits under title XVI of the Social Security Act for provisions relating to the treatment of persons eligible to receive supplemental security income benefits under title XVI of the Social Security Act, should also not be effective for the same period. The resulting subsec. (e) reads as follows:

"(e) The term 'household' shall mean a group of related individuals (including legally adopted children and legally assigned foster children) or non-related individuals over age 60 who are not residents of an institution or boarding house, but are living as one economic unit sharing common cooking facilities and for whom food is customarily purchased in common. The term 'household' shall also mean (1) a single individual living alone who has cooking facilities and who purchases and prepares food for home consumption, or (2) an elderly person who meets the requirements of section 2019(h) of this title. For the period ending June 30, 1977 no individual, who receives supplemental security income benefits under title XVI of the Social Security Act [42 U.S.C. 1381 et seq.] State supplementary payments described in section 1616 of such Act [42 U.S.C. 1382e], or payments of the type referred to in section 212(a) of Public Law 93-66 [42 U.S.C. 1382 note], shall be considered to be a member of a household or an elderly person for purposes of this chapter for any month during such period, if, for such month, such individual resides in a State which provides State supplementary payments (A) of the type described in section 1616(a) of the Social Security Act [42 U.S.C. 1382e(a)], and (B) the level of which has been found by the Secretary of Health, Education, and Welfare to have been specifically increased so as to include the bonus value of food stamps."

REFERENCES IN TEXT

Title XVI of the Social Security Act, referred to in subsec. (e), is title XVI of act Aug. 14, 1935, ch. 531, which is classified to subchapter XVI (§ 1381 et seq.) of chapter 7 of Title 42, The Public Health and Welfare.

Title I, X, XIV, or XVI, referred to in subsec. (e), are probably titles I, X, XIV, or XVI of act Aug. 14, 1935, ch. 531, which are classified to subchapters I (§ 301 et seq.), X (§ 1201 et seq.), XIV (§ 1351 et seq.), and XVI (§ 1381 et seq.) of chapter 7 of Title 42, respectively.

Pub. L. 92-603, as amended, referred to in subsec. (e), is the Social Security Amendments of 1972, Pub. L. 92-603, Oct. 30, 1972, 86 Stat. 1329. For distribution of such Act in this Code, see Short Title note set out under section 401 of Title 42, The Public Health and Welfare.

Pub. L. 91-616 "Comprehensive Alcohol Abuse and Alcohol Prevention, Treatment, and Rehabilitation Act", referred to in subsec. (n), is act Dec. 31, 1970, 84 Stat. 1848, and is classified principally to chapter 60 (§ 4541 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note under section 4551 of Title 42.

Pub. L. 92-255 "Drug Abuse Office and Treatment Act of 1972", referred to in subsec. (n), is act Mar. 21, 1972, 86 Stat. 66, and is classified principally to chapter 16 (§ 1101 et seq.) of Title 21, Food and Drugs. For complete classification of this Act to the Code, see Short Title note under section 1101 of Title 21.

AMENDMENTS

1976—Subsec. (o). Pub. L. 94-339 added subsec. (o).

1973—Subsec. (b). Pub. L. 93-86, § 3(l), substituted "home" for "human" and substituted provisions including in the definition of "food" seeds and plants for use in gardens to produce food for the personal consumption of the eligible household, for provisions excluding from such definition foods identified on the package as imported and imported meat and meat products.

Subsec. (e). Pub. L. 93-125 substituted "foregoing" for "foreoging".

Pub. L. 93-86, § 3(a), (b), (p), added provision of cl. (3) relating to inclusion of narcotic addict or alcoholic within definition of "household" and provision relating to residents of federally subsidized housing for the elderly, and substituted provisions relating to the treatment of individuals receiving supplemental security income benefits under subchapter XVI of chapter 7 of Title 42, for provisions relating to the treatment of persons eligible to receive supplemental security income benefits under subchapter XVI of chapter 7 of Title 42.

Subsec. (f). Pub. L. 93-86, § 3(o), added references to nonprofit institution and section 2019(i) of this title.

Subsec. (n). Pub. L. 93-86, § 3(c), added subsec. (n).

1972—Subsec. (e). Pub. L. 92-603, § 411(a), added provision that persons eligible or would be eligible to receive supplemental security income benefits under sections 1381 to 1383c of Title 42, may not be considered as members of a household or elderly persons under this chapter.

Subsec. (h). Pub. L. 92-603, § 411(b), substituted provisions defining State agency as the agency designated by the Secretary for carrying out this chapter in such state, for provisions defining it as the agency having the responsibility for the administration of the federally aided public assistance program.

1971—Subsec. (e). Pub. L. 91-671, § 2(a), substituted in definition of "household", "related individuals (including legally adopted children and legally assigned foster children) or non-related individuals over age 60 who are not residents" for "related or non-related individuals, who are not residents", designated existing provisions as cl. (1), and added cl. (2).

Subsec. (f). Pub. L. 91-671, § 2(b), included in definition of "retail food store" a political subdivision or a private nonprofit organization that meets requirements of section 2019(h) of this title.

Subsec. (j). Pub. L. 91-671, § 2(c), included in definition of "State" Guam, Puerto Rico, and the Virgin Islands.

Subsec. (l). Pub. L. 91-671, § 2(d), added subsec. (l).

Subsec. (m). Pub. L. 91-671, § 2(e), added subsec. (m).

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment of section 8(a)(1) and (2) of Pub. L. 93-233 by section 1(a) and (b) of Pub. L. 93-335, effective July 1, 1974, see section 1(c) of Pub. L. 93-335, set out as a note under section 1382 of Title 42, The Public Health and Welfare.

EFFECTIVE DATE OF 1972 AMENDMENT

Section 411(a) of Pub. L. 92-603 provided in part that amendment of subsec. (e) of this section is effective January 1, 1974.

Section 411(h) of Pub. L. 92-603 provided that: "Except as otherwise provided in this section, the amendments made by this section [amending subsection (h) of this section and sections 2019 and 2023 of this title] shall take effect on January 1, 1973".

ELIGIBILITY OF SUPPLEMENTAL SECURITY INCOME RECIPIENTS FOR FOOD STAMPS DURING PRESCRIBED PERIOD BEGINNING JANUARY 1, 1974

Provisions respecting eligibility of supplemental security income recipients for food stamps during prescribed period beginning Jan. 1, 1974, see section 8(c) of Pub. L. 93-233, Dec. 31, 1974, 87 Stat. 957, set out as a note under section 1832e of Title 42, The Public Health and Welfare.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2014 of this title.

§ 2013. Establishment of program

(a) Use of coupons; redeemability

The Secretary is authorized to formulate and administer a food stamp program under which, at the request of the State agency, eligible households within the State shall be provided with an opportunity to obtain a nutritionally adequate diet through the issuance to them of a coupon allotment which shall have a greater monetary value than the charge to be paid for such allotment by eligible households. The coupons so received by such households shall be used only to purchase food from retail food stores which have been approved for participation in the food stamp program. Coupons issued and used as provided in this chapter shall be redeemable at face value by the Secretary through the facilities of the Treasury of the United States.

(b) Distribution of federally donated foods

In areas where the food stamp program is in operation, there shall be no distribution of federally donated foods to households under the authority of any other law except that distribution thereunder may be made: (1) during temporary emergency situations when the Secretary determines that commercial channels of food distribution have been disrupted; (2) for such period of time as the Secretary determines necessary, to effect an orderly transition in an area in which the distribution of federally donated foods to households is being replaced by a food stamp program; or (3) on request of the State agency: *Provided,* That the Secretary shall not approve any plan established under this chapter which permits any household to simultaneously participate in both the food stamp program and the distribution of federally donated foods under this clause (3).

(c) Regulations

The Secretary shall issue such regulations, not inconsistent with this chapter, as he deems necessary or appropriate for the effective and efficient administration of the food stamp program.

(Pub. L. 88-525, § 4, Aug. 31, 1964, 78 Stat. 704; Pub. L. 91-671, § 3, Jan. 11, 1971, 84 Stat. 2049.)

AMENDMENTS

1971—Subsec. (a). Pub. L. 91-671 substituted "the State agency" and "the charge to be paid for such allotment by eligible households" for "an appropriate State agency" and "their normal expenditures for food" and deleted "more nearly" preceding "to obtain".

Subsec. (b). Pub. L. 91-671 substituted "operation" for "effect", "federally donated foods" for "federally owned foods" where first appearing, and exception provision for distributions to households: during temporary emergency situations, for period of time necessary to effect transition to a food stamp program as a replacement of distribution of federally donated foods, or on request of the State agency without simultaneous participation in both the food stamp program and distribution of federally donated foods for prior exception during emergency situations caused by a national or other disaster.

§ 2014. Eligibility standards

(a) Income and other financial resources of households as substantial limiting factors

Except for the temporary participation of households that are victims of a disaster as provided in subsection (b) of this section, participation in the food stamp program shall be limited to those households whose income and other financial resources are determined to be substantial limiting factors in permitting them to purchase a nutritionally adequate diet.

(b) Uniform national standards; minimum criteria; payments in kind received from an employer by household members; income tax dependency claims; temporary emergency standards for duration of emergency; special standards for Puerto Rico, Guam and Virgin Islands

The Secretary, in consultation with the Secretary of Health, Education, and Welfare, shall establish uniform national standards of eligibility for participation by households in the food stamp program and no plan of operation submitted by a State agency shall be approved unless the standards of eligibility meet those established by the Secretary. The standards established by the Secretary, at a minimum shall prescribe the amounts of household income and other financial resources, including both liquid and nonliquid assets, to be used as criteria of eligibility: *Provided,* That such standards shall take into account payments in kind received from an employer by members of a household, if such payments are in lieu of or supplemental to household income: *Provided further,* That such payments in kind shall be limited only to housing provided by such employer to such employee and shall be the actual value of such housing but in no event shall such value be considered to be in excess of the sum of $25.00 per month. Any household which includes a member who has reached his eighteenth birthday and who is claimed as a dependent child for Federal income tax purposes by a taxpayer who is not a member of an eligible household, shall be ineligible to participate in any food stamp program established pursuant to this chapter during the tax period such dependency is claimed and for a period of one year after expiration of such tax period. The Secretary may also establish temporary emergency standards of eligibility for the duration of the emergency, without regard to income and other financial resources, for households that are the victims of a mechanical disaster which disrupts the distribution of coupons, and for households that are victims of a disaster which disrupted commercial channels of food distribution when he determines that such households are in need of temporary food assistance, and that commercial channels of food distribution have again become available to meet the temporary food needs of such households: *Provided,* That the Secretary shall in the case of Puerto Rico, Guam, and the Virgin Islands, establish special standards of eligibility and coupon allotment schedules which reflect the average per capita income and cost of obtaining a nutritionally adequate diet in Puerto Rico and the respective territories; except that in no event shall the standards of eligibility or coupon allotment

schedules so used exceed those in the fifty States.

(c) Employment of able-bodied adults; excepted persons; refusal of work during strike or lockout; definition

Notwithstanding any other provisions of law, the Secretary shall include in the uniform national standards of eligibility to be prescribed under subsection (b) of this section a provision that each State agency shall provide that a household shall not be eligible for assistance under this chapter if it includes an able-bodied adult person between the ages of eighteen and sixty-five (except mothers or other members of the household who have the responsibility of care of dependent children or of incapacitated adults, bona fide students in any accredited school or training program, or persons employed and working at least 30 hours per week) who either (a) fails to register for employment at a State or Federal employment office or, when impractical, at such other appropriate State or Federal office designated by the Secretary, or (b) has refused to accept employment or public work at not less than (i) the applicable State minimum wage, (ii) the applicable Federal minimum wage, (iii) the applicable wage established by a valid regulation of the Federal Government authorized by existing law to establish such regulations, or (iv) $1.30 per hour if there is no applicable wage as described in (i), (ii), or (iii) above. Refusal to work at a plant or site subject to a strike or a lockout for the duration of such strike or lockout shall not be deemed to be a refusal to accept employment. For the purposes of this section, the term "able-bodied adult person" shall not include any narcotics addict or alcoholic who regularly participates, as a resident or nonresident, in any drug addiction or alcoholic treatment and rehabilitation program.

(d) Uniform national standards for households containing any narcotics addict or alcoholic

The Secretary shall establish uniform national standards of eligibility for households described in section 2012(e)(3) of this title.

(Pub. L. 88-525, § 5, Aug. 31, 1964, 78 Stat. 704; Pub. L. 91-671, § 4, Jan. 11, 1971, 84 Stat. 2049; Pub. L. 93-86, § 3(d), (e), (g), (h), Aug. 10, 1973, 87 Stat. 246, 247.)

AMENDMENTS

1973—Subsec. (b). Pub. L. 93-86, § 3(g), (h), added provisos relating to payments in kind received from an employer by members of a household as bearing upon the promulgation of uniform national standards, provision limiting the authority of the Secretary to establish temporary emergency standards of eligibility to the duration of the emergency, and the provision authorizing such standards for households that are victims of a mechanical disaster disrupting the distribution of coupons.

Subsec. (c). Pub. L. 93-86, § 3(e), added the definition of the term "able-bodied adult person".

Subsec. (d). Pub. L. 93-86, § 3(d), added subsec. (d).

1971—Subsec. (a). Pub. L. 91-671 inserted introductory phrase "Except for the temporary participation of households that are victims of a disaster as provided in subsection (b) of this section" and provision respecting other financial resources as being a limitation factor and substituted "in permitting them to purchase" for "in the attainment of".

Subsec. (b). Pub. L. 91-671 substituted provisions for establishment of uniform national standards of eligibility for participation by households in the food stamp program and minimum criteria of eligibility, ineligibility of any household which includes a member claimed as a dependent child for Federal income tax purposes by a taxpayer who is not a member of an eligible household, temporary emergency standards of eligibility, and special standards of eligibility and coupon allotment schedules in Puerto Rico and the Virgin Islands, not exceeding standards of eligibility or coupon allotment schedules of the States for prior establishment of standards of eligibility by the State agency, including maximum income limitations and limitation on resources to be allowed eligible households, and approval of such standards by the Secretary.

Subsec. (c). Pub. L. 91-671 added subsec. (c).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 43 section 1626.

§ 2015. Coupons

(a) Issuance

Coupons shall be printed in such denominations as may be determined to be necessary, and shall be issued only to households which have been duly certified as eligible to participate in the food stamp program.

(b) Inventory monitoring procedures; regulations; reports to Secretary; penalties

(1) The Secretary shall by regulation develop an appropriate procedure for determining and monitoring the level of coupon inventories in the hands of coupon vendors for the purpose of insuring that such inventories are at proper levels (taking into consideration the historical and projected volume of coupon distribution by such vendors). Any such regulations shall contain procedures to insure that coupon inventories in the hands of coupon vendors are not in excess of the reasonable needs of such vendors taking into consideration the ease and feasibility of resupplying such coupon inventories. The Secretary may, at his discretion, require periodic reports from such coupon vendors respecting the level of such inventories.

(2) Any coupon vendor, or any officer, employee, or agent thereof, convicted of failing to provide a report required under paragraph (1) of this subsection shall be fined not more than $3,000, or imprisoned not more than one year, or both.

(3) Any coupon vendor, or any officer, employee, or agent thereof, who knowingly provides false information in any report required under paragraph (1) of this subsection shall be fined not more than $10,000, or imprisoned not more than ten years, or both.

(c) Delivery, custody, care, and storage procedures; regulations; penalties

(1) The Secretary shall by regulation prescribe appropriate procedures for the delivery of coupons to coupon vendors and for the custody, care, control, and storage of coupons in the hands of coupon vendors in order to secure such coupons against theft, embezzlement, misuse, loss, or destruction.

(2) Any coupon vendor, or any officer, employee, or agent thereof, convicted of violating any regulations issued under paragraph (1) of this subsection shall be fined not more than

$3,000, or imprisoned not more than one year, or both.

(d) Approved food stores; usage

Coupons issued to eligible households shall be used by them only to purchase food in retail food stores which have been approved for participation in the food stamp program at prices prevailing in such stores: *Provided,* That nothing in this chapter shall be construed as authorizing the Secretary to specify the prices at which food may be sold by wholesale food concerns or retail food stores.

(e) Design

Coupons issued to eligible households shall be simple in design and shall include only such words or illustrations as are required to explain their purpose and define their denomination. The name of any public official shall not appear on such coupons.

(Pub. L. 88-525, § 6, Aug. 31, 1964, 78 Stat. 704; Pub. L. 94-339, § 3, July 5, 1976, 90 Stat. 800.)

AMENDMENTS

1976—Subsecs. (b), (c). Pub. L. 94-339 added subsecs. (b) and (c). Former subsecs. (b) and (c) were redesignated (d) and (e), respectively.

Subsecs. (d), (e). Pub. L. 94-339 redesignated former subsecs. (b) and (c) as (d) and (e), respectively.

§ 2016. Value of coupon allotment

(a) Cost of nutritionally adequate diet; semiannual adjustments

The face value of the coupon allotment which State agencies shall be authorized to issue to any households certified as eligible to participate in the food stamp program shall be in such amount as the Secretary determines to be the cost of a nutritionally adequate diet, adjusted semiannually by the nearest dollar increment that is a multiple of two to reflect changes in the prices of food published by the Bureau of Labor Statistics in the Department of Labor to be implemented commencing with the allotments of January 1, 1974, incorporating the changes in the prices of food through August 31, 1973, but in no event shall such adjustments be made for households of a given size unless the increase in the face value of the coupon allotment for such households, as calculated above, is a minimum of $2.00.

(b) Charges to households

Notwithstanding any other provision of law, households shall be charged for the coupon allotment issued to them, and the amount of such charge shall represent a reasonable investment on the part of the household, but in no event more than 30 per centum of the household's income: *Provided,* That coupon allotments may be issued without charge to households with income of less than $30 per month for a family of four under standards of eligibility prescribed by the Secretary: *Provided further,* That the Secretary shall provide a reasonable opportunity for any eligible household to elect to be issued a coupon allotment having a face value which is less than the face value of the coupon allotment authorized to be issued to them under subsection (a) of this section. The charge to be paid by eligible households electing to exercise the option set forth in this subsection shall be an amount which bears the same ratio to the amount which would have been charged under subsection (b) of this section as the face value of the coupon allotment actually issued to them bears to the face value of the coupon allotment that would have been issued to them under subsection (a) of this section.

(c) Tax exemptions and other considerations

The value of the coupon allotment provided to any eligible household which is in excess of the amount charged such households for such allotment shall not be considered to be income or resources for any purpose under any Federal or State laws including, but not limited to, laws relating to taxation, welfare, and public assistance programs.

(d) Disposition of funds; regulations; penalties; vendors as fiduciaries of Federal Government; notice of deposit; voucher; reports to Secretary by vendors and State agencies; deposit of funds collected by United States Postal Service

(1) Funds derived from the charges made for the coupon allotment shall be promptly deposited in a manner prescribed in the regulations issued pursuant to this chapter, in a separate account maintained in the Treasury of the United States for such purpose. Such deposits shall be available, without limitation to fiscal years, for the redemption of coupons.

(2)(A) The Secretary shall by regulation prescribe the manner in which funds derived from the distribution of coupons (charges made for coupon allotments) shall be deposited by coupon vendors. The regulations shall contain provisions requiring that coupon vendors promptly deposit such funds in the manner prescribed by the Secretary: *Provided,* That such regulations shall, at a minimum, require that such deposits be made weekly: *Provided further,* That such regulations shall, at a minimum, require that upon the accumulation of a balance on hand of $1,000 or more, such deposits be made within two banking days following the accumulation of such amount.

(B) Any coupon vendor, or any officer, employee, or agent thereof, convicted of violating the regulations issued under subparagraph (A) of this paragraph shall be fined not more than $3,000, or imprisoned not more than one year, or both.

(3)(A) Coupon vendors receiving funds derived from the distribution of coupons (charges made for coupon allotments) shall be deemed to be receiving such funds as fiduciaries of the Federal Government, and such coupon vendors shall immediately set aside all such funds as funds of the Federal Government. Funds derived from the distribution of coupons (charges made for coupon allotments) shall not be used, prior to the deposit of such funds in the manner prescribed by the Secretary, for the benefit of any person, partnership, corporation, association, organization, or entity other than the Federal Government.

(B) Any coupon vendor, or any officer, employee, or agent thereof, convicted of violating subparagraph (A) of this paragraph shall be fined not more than $10,000, or a sum equal to the amount of funds involved in the violation, whichever is the greater, or imprisoned not more than ten years, or both: *Provided,* That if

the amount of such funds is less than $1,000, such vendor shall be fined not more than $3,000, or imprisoned not more than one year, or both.

(4)(A) The Secretary shall by regulation require that upon the deposit, in the manner prescribed by the Secretary, of funds derived from the distribution of coupons (charges made for coupon allotments), coupon vendors shall immediately send a written notice to the State agency, accompanied by an appropriate voucher, confirming such deposit. In addition to such other information deemed by the Secretary to be appropriate, such regulations shall require that the notice contain—

(i) the name and address of the coupon vendor;

(ii) the total receipts of such coupon vendor derived from the distribution of coupons (charges made for coupon allotments) during the deposit period;

(iii) the amount of the deposit;

(iv) the name and address of the depository; and

(v) an oath, or affirmation signed by the coupon vendor, or in the case of a corporation or other entity not a natural person, by an appropriate official of the coupon vendor, certifying that the information contained in such notice is true and correct to the best of such person's knowledge and belief.

(B) Any coupon vendor, or any officer, employee, or agent thereof, convicted of failing to provide the notice required under subparagraph (A) of this paragraph shall be fined not more than $3,000, or imprisoned not more than one year, or both.

(C) Any coupon vendor, or any officer, employee, or agent thereof, who knowingly provides false information in any notice required under subparagraph (A) of this paragraph shall be fined not more than $10,000, or imprisoned not more than ten years, or both.

(5)(A) The Secretary shall be regulation require each coupon vendor at intervals prescribed by the Secretary, but not less often than monthly, to send to the Secretary, or his designee, a written report of the vendor's operations during such period under the food stamp program. In addition to such other information deemed by the Secretary to be appropriate, the regulations shall require that the report contain—

(i) the name and address of the coupon vendor;

(ii) the total receipts of the coupon vendor derived from the distribution of coupons (charges made for coupon allotments) during the report period;

(iii) the total amount of deposits made by the vendor of funds derived from the distribution of coupons (charges made for coupon allotments) during such period;

(iv) the name and address of each depository receiving such funds from such vendor; and

(v) an oath, or affirmation, signed by the coupon vendor, or in the case of a corporation or other entity not a natural person, by an appropriate official of the coupon vendor, certifying that the information contained in the report is true and correct to the best of such person's knowledge and belief.

(B) Any coupon vendor, or any officer, employee, or agent thereof, convicted of failing to provide any notice required under subparagraph (A) of this paragraph shall be fined not more than $3,000, or imprisoned not more than one year, or both.

(C) Any coupon vendor, or any officer, employee, or agent thereof, who knowingly provides false information in any notice required under subparagraph (A) of this paragraph shall be fined not more than $10,000, or imprisoned not more than ten years, or both.

(6) The Secretary may by regulation require State agencies to provide periodic reports to the Secretary, or his designee, containing a consolidation of the respective coupon vendor's notices to such State agencies at such intervals as the Secretary in his discretion deems appropriate.

(7) The Secretary and the United States Postal Service shall jointly arrange for the prompt deposit of funds collected by the Postal Service on behalf of a State from charges made for coupon allotments.

(Pub. L. 88-525, § 7, Aug. 31, 1964, 78 Stat. 705; Pub. L. 91-671, § 5, Jan. 11, 1971, 84 Stat. 2050; Pub. L. 93-86, § 3(m), Aug. 10, 1973, 87 Stat. 248; Pub. L. 93-125, § 1(k), Oct. 18, 1973, 87 Stat. 450; Pub. L. 94-339, § 2, July 5, 1976, 90 Stat. 799.)

AMENDMENTS

1976—Subsec. (d). Pub. L. 94-339 designated existing provisions as par. (1) and added pars. (2) through (7).

1973—Subsec. (a). Pub. L. 93-125 substituted "for households of a given size unless the increase in the face value" for "for value".

Pub. L. 93-86 substituted provisions relating to the determination of semiannual adjustments in the face value of the coupon allotment for provisions relating to the determination of annual adjustments in such allotment.

1971—Subsec. (a). Pub. L. 91-671 substituted provision for issuance of coupon allotment in such amount as the Secretary determines to be the cost of a nutritionally adequate diet, adjusted annually to reflect changes in the prices of food published by the Bureau of Labor Statistics for prior provision for issuance in such amount as will provide households with an opportunity more nearly to obtain a low-cost nutritionally adequate diet and inserted "any" preceding "households".

Subsec. (b). Pub. L. 91-671 substituted provisions respecting charges to households for coupon allotments representing reasonable investment on part of the households, issuance of coupon allotments without charge where monthly income is less than $30 for a family of four, and election of coupon allotment with a lesser face value than the face value authorized to be issued for prior provision for a charge determined to be equivalent to normal expenditures for food.

FOOD STAMP COUPONS, COST INCREASE SUSPENSION

Pub. L. 94-4, Feb. 20, 1975, 89 Stat. 6, provided: "That, notwithstanding the provisions of section 7(b) of the Food Stamp Act of 1964 (7 U.S.C. 2016(b)), the charge imposed on any household for a coupon allotment under such Act [this chapter] after the date of enactment of this Act [Feb. 20, 1975] and prior to December 30, 1975, may not exceed the charge that would have been imposed on such household for such coupon allotment under rules and regulations promulgated under such Act [this chapter] and in effect on January 1, 1975."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2019, 2025 of this title.

§ 2017. Approval of retail food stores and wholesale food concerns

(a) Applications; qualifications of applicants; factors considered; issuance of certificate

Regulations issued pursuant to this chapter shall provide for the submission of applications for approval by retail food stores and wholesale food concerns which desire to be authorized to accept and redeem coupons under the food stamp program and for the approval of those applicants whose participation will effectuate the purposes of the food stamp program. In determining the qualifications of applicants there shall be considered among such other factors as may be appropriate, the following: (1) the nature and extent of the retail or wholesale food business conducted by the applicant; (2) the volume of coupon business which may reasonably be expected to be conducted by the applicant retail food store or wholesale food concern; and (3) the business integrity and reputation of the applicant. Approval of an applicant shall be evidenced by the issuance to such applicant of a nontransferable certificate of approval.

(b) Submission of information by stores and concerns; disclosure of information

Regulations issued pursuant to this chapter shall require an applicant retail food store or wholesale food concern to submit information which will permit a determination to be made as to whether such applicant qualifies, or continues to qualify, for approval under the provisions of this chapter or the regulations issued pursuant to this chapter. Regulations issued pursuant to this chapter shall provide for safeguards which restrict the use or disclosure of information obtained under the authority granted by this subsection to purposes directly connected with administration and enforcement of the provisions of this chapter or the regulations issued pursuant to this chapter.

(c) Hearing on refusal

Any retail food store or wholesale food concern which has failed upon application to receive approval to participate in the food stamp program may obtain a hearing on such refusal as provided in section 2022 of this title.

(Pub. L. 88–525, § 8, Aug. 31, 1964, 78 Stat. 705.)

§ 2018. Redemption of coupons

Regulations issued pursuant to this chapter shall provide for the redemption of coupons accepted by retail food stores through approved wholesale food concerns or through banks, with the cooperation of the Treasury Department.

(Pub. L. 88–525, § 9, Aug. 31, 1964, 78 Stat. 705.)

§ 2019. Administration of program

(a) Efforts to insure participants obtain needed foods; foods in abundant or surplus supply; cooperation of Federal, State, local and private agencies

All practicable efforts shall be made in the administration of the food stamp program to insure that participants use their increased food purchasing power to obtain those staple foods most needed in their diets, and particularly to encourage the continued use of those in abundant or surplus supply so as not to reduce the total consumption of surplus commodities which have been made available through direct distribution. In addition to such steps as may be taken administratively, the voluntary cooperation of existing Federal, State, local, or private agencies which carry out informational and educational programs for consumers shall be enlisted.

(b) Responsibility of State agency for certification of applicants and issuance of coupons; records; inspection and audit.

The State agency of each participating State shall assume responsibility for the certification of applicant households and for the issuance of coupons: *Provided,* That the State agency may, subject to State law, delegate its responsibility in connection with the issuance of coupons to another agency of the State government. There shall be kept such records as may be necessary to ascertain whether the program is being conducted in compliance with the provisions of this chapter and the regulations issued pursuant to this chapter. Such records shall be available for inspection and audit at any reasonable time and shall be preserved for such period of time, not in excess of three years, as may be specified in the regulations.

(c) Period of validity of certification upon removal from one political subdivision to another; prohibition against discrimination

Certification of a household as eligible in any political subdivision shall, in the event of removal of such household to another political subdivision in which the food stamp program is operating, remain valid for participation in the food stamp program for a period of sixty days from the date of such removal. In the certification of applicant households for the food stamp program there shall be no discrimination against any household by reason of race, religious creed, national origin, or political beliefs.

(d) Welfare grants

Participating States or participating political subdivisions thereof shall not decrease welfare grants or other similar aid extended to any person or persons as a consequence of such person's or persons' participation in benefits made available under the provisions of this chapter or the regulations issued pursuant to this chapter.

(e) State plan of operation; submission; contents; time for submission and approval

The State agency of each State desiring to participate in the food stamp program shall submit for approval a plan of operation specifying the manner in which such program will be conducted within the State, the political subdivisions within the State in which the State desires to conduct the program, and the effective dates of participation by each such political subdivision. In addition, such plan of operation shall provide, among such other provisions as may by regulations be required, the following: (1) the specific standards to be used in determining the eligibility of applicant households; (2) that the State agency shall undertake the certification of applicant households in accor-

dance with the general procedures and personnel standards prescribed by the Secretary in the regulations issued pursuant to this chapter; (3) safeguards which restrict the use or disclosure of information obtained from applicant households to persons directly connected with the administration of enforcement of the provisions of this chapter or the regulations issued pursuant to this chapter; (4) for the submission of such reports and other information as from time to time may be required; (5) that the State agency shall undertake effective action, including the use of services provided by other federally funded agencies and organizations, to inform low-income households concerning the availability and benefits of the food stamp program and insure the participation of eligible households; (6) issuance of coupon allotments no less often than two times per month; (7) notwithstanding any other provisions of law, the institution of procedures under which any household participating in the program shall be entitled, if it so elects, to have the charges, if any, for its coupon allotment deducted from any grant or payment such household may be entitled to receive under title IV of the Social Security Act [42 U.S.C. 601 et seq.] and have its coupon allotment distributed to it with such grant or payment; and (8) for the granting of a fair hearing and a prompt determination thereafter to any household aggrieved by the action of a State agency under any provision of its plan of operation as it affects the participation of such household in the food stamp program. In approving the participation of the subdivisions requested by each State in its plan of operation, the Secretary shall provide for an equitable and orderly expansion among the several States in accordance with their relative need and readiness to meet their requested effective dates of participation. The State agency is required to submit, prior to January 1, 1974, for approval, a plan of operation specifying the manner in which such State agency intends to conduct the program in every political subdivision in the State, unless such State agency can demonstrate that for any political subdivision it is impossible or impracticable to extend the program to such subdivision. The Secretary shall make a determination of approval or disapproval of a plan of operation submitted by a State agency in sufficient time to permit institution of such plan by no later than June 30, 1974.

(f) Compliance; withholding issuance of coupons

If the Secretary determines that in the administration of the program there is a failure by a State agency to comply substantially with the provisions of this chapter, or with the regulations issued pursuant to this chapter, or with the State plan of operation, he shall inform such State agency of such failure and shall allow the State agency a reasonable period of time for the correction of such failure. Upon the expiration of such period, the Secretary shall direct that there be no further issuance of coupons in the political subdivisions where such failure has occurred until such time as satisfactory corrective action has been taken.

(g) Negligence or fraud

If the Secretary determines that there has been gross negligence or fraud on the part of the State agency in the certification of applicant households, the State shall upon request of the Secretary deposit into the separate account authorized by section 2016 of this title, a sum equal to the amount by which the value of any coupons issued as a result of such negligence or fraud exceeds the amount that was charged for such coupons under section 2016(b) of this title.

(h) Meal purchases by members of an eligible household sixty years of age or over or an elderly person and his spouse; terms and conditions

Subject to such terms and conditions as may be prescribed by the Secretary in the regulations issued pursuant to this chapter, members of an eligible household who are sixty years of age or over or an elderly person and his spouse may use coupons issued to them to purchase meals prepared for and delivered to them by a political subdivision or by a private nonprofit organization which: (1) is not receiving federally donated foods from the United States Department of Agriculture for use in the preparation of such meals; (2) is operated in a manner consistent with the purposes of this chapter; and (3) is recognized as a tax exempt organization by the Internal Revenue Service: *Provided,* That household members or elderly persons to whom meals are delivered are housebound, feeble, physically handicapped, or otherwise disabled, to the extent that they are unable to adequately prepare all of their meals. Meals served pursuant to this subsection shall be deemed "food" for the purposes of this chapter. Subject to such terms and conditions as may be prescribed by the Secretary, in the regulations issued pursuant to this chapter, members of an eligible household who are sixty years of age or over or elderly persons and their spouses may also use coupons issued to them to purchase meals prepared by senior citizens' centers, apartment buildings occupied primarily by elderly persons, any public or nonprofit private school which prepares meals especially for elderly persons, any public or nonprofit private eating establishment which prepares meals especially for elderly persons during special hours, and any other public or nonprofit private establishment approved for such purpose by the Secretary. When an appropriate State or local agency contracts with a private establishment to offer, at concessional prices, meals prepared especially for elderly persons during regular or special hours, the Secretary shall permit members of eligible households who are sixty years of age or over or elderly persons and their spouses to use coupons issued to them to purchase such meals.

(i) Meal purchases by members of an eligible household who are narcotics addicts or alcoholics; terms and conditions

Subject to such terms and conditions as may be prescribed by the Secretary in the regulations pursuant to this chapter, members of an eligible household who are narcotics addicts or alcoholics and regularly participate in a drug addiction or alcoholic treatment and rehabilitation program may use coupons issued to them

to purchase food prepared for or served to them during the course of such program by a private nonprofit organization or institution which meets requirements (1), (2), and (3) of subsection (h) above. Meals served pursuant to this subsection shall be deemed "food" for the purposes of this chapter.

(Pub. L. 88-525, § 10, Aug. 31, 1964, 78 Stat. 706; Pub. L. 91-671, § 6, Jan. 11, 1971, 84 Stat. 2051; Pub. L. 92-603, title IV, § 411(c)-(e), Oct. 30, 1972, 86 Stat. 1491; Pub. L. 93-86, § 3(f), (i), (k), Aug. 10, 1973, 87 Stat. 247, 248; Pub. L. 93-125, § 1(j), Oct. 18, 1973, 87 Stat. 450.)

REFERENCES IN TEXT

Title IV of the Social Security Act, referred to in subsec. (e), is classified to subchapter IV (§ 601 et seq.) of chapter 7 of Title 42, The Public Health and Welfare.

AMENDMENTS

1973—Subsec. (e). Pub. L. 93-86, § 3(i), added cls. (6) and (7), designated former cl. (6) as (8), and added provision relating to the time for submission of the plan of operation to the Secretary for approval and the time for the Secretary to make a determination of approval or disapproval of such plan.

Subsec. (h). Pub. L. 93-125 added "members of" following "the Secretary shall permit".

Pub. L. 93-86, § 3(k), added provisions authorizing meal purchases from senior citizens' centers, apartment buildings occupied primarily by elderly persons, any public or nonprofit private school which prepares meals especially for elderly persons, any public or nonprofit private eating establishment which prepares meals especially for elderly persons during special hours, and any other public or nonprofit private establishment approved for such purpose by the Secretary.

Subsec. (i). Pub. L. 93-86, § 3(f), added subsec. (i).

1972—Subsec. (c). Pub. L. 92-603, § 411(c), struck out provisions relating to the filing of an affidavit by the household for certification of eligibility for public assistance.

Subsec. (e). Pub. L. 92-603, § 411(d), (e), substituted "prescribed by the Secretary in the regulations issued pursuant to this chapter" for "used by them in the certification of applicants for benefits under the federally aided public assistance programs" in cl. (2), and struck out provisions requiring the State agency to institute procedures under which any household participating in the food stamp program shall be entitled to have the charges for its coupon allotment deducted from grants or payments such household is entitled to receive and have its coupon allotment distributed to it with such grant or payment.

1971—Subsec. (c). Pub. L. 91-671, § 6(a), inserted provisions respecting certification of eligibility for benefits by execution of an affidavit and duration of validity of a certification upon removal of a household from one political subdivision to another.

Subsec. (e). Pub. L. 91-671, § 6(b), substituted "regulations" for "regulation" in second sentence preceding cl. (1) and "from time to time may" for "may from time to time", and added cls. (5) and (6) and provision for withholding in the State plan.

Subsec. (h). Pub. L. 91-671, § 6(c), added subsec. (h).

EFFECTIVE DATE OF 1972 AMENDMENT

Amendment by Pub. L. 92-603 effective Jan. 1, 1973, see section 411(h) of Pub. L. 92-603, set out as a note under section 2012 of this title.

TRANSFER OF FUNCTIONS

Functions, powers, and duties of Secretary of Agriculture under subsec. (e)(2) of this section, insofar as relates to the prescription of personnel standards on a merit basis, transferred to United States Civil Service Commission, see section 4728 of Title 42, The Public Health and Welfare.

EXTENSION UNTIL OCTOBER 1, 1976, OF FINAL DATE FOR COMPLIANCE WITH REGULATIONS GOVERNING USE OF FOOD STAMPS BY AFDC FAMILIES

Pub. L. 94-182, title II, § 201, Dec. 31, 1975, 89 Stat. 1056, provided that: "Notwithstanding any other provision of law, the final date for compliance with regulations in implementation of section 10(e)(7) of the Food Stamp Act of 1964, as amended [subsec. (e)(7) of this section], may be extended until October 1, 1976."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2012, 2024 of this title.

§ 2020. Disqualification of retail stores and wholesale food concerns

Any approved retail food store or wholesale food concern may be disqualified from further participation in the food stamp program on a finding, made as specified in the regulations, that such store or concern has violated any of the provisions of this chapter, or of the regulations issued pursuant to this chapter. Such disqualification shall be for such period of time as may be determined in accordance with regulations issued pursuant to this chapter. The action of disqualification shall be subject to review as provided in section 2022 of this title.

(Pub. L. 88-525, § 11, Aug. 31, 1964, 78 Stat. 707.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2022 of this title.

§ 2021. Determination and disposition of claims

The Secretary shall have the power to determine the amount of and settle and adjust any claim and to compromise or deny all or part of any such claim or claims arising under the provisions of this chapter or the regulations issued pursuant to this chapter.

(Pub. L. 88-525, § 12, Aug. 31, 1964, 78 Stat. 707.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2022 of this title.

§ 2022. Administrative and judicial review

Whenever—

(a) an application of a retail food store or wholesale food concern to participate in the food stamp program is denied,

(b) a retail food store or a wholesale food concern is disqualified under the provisions of section 2020 of this title, or

(c) all or part of any claim of a retail food store or wholesale food concern is denied under the provisions of section 2021 of this title, notice of such administrative action shall be issued to the retail food store or wholesale food concern involved. Such notice shall be delivered by certified mail or personal service. If such store or concern is aggrieved by such action, it may, in accordance with regulations promulgated under this chapter, within ten days of the date of delivery of such notice, file a written request for

an opportunity to submit information in support of its position to such person or persons as the regulations may designate. If such a request is not made or if such store or concern fails to submit information in support of its position after filing a request, the administrative determination shall be final. If such a request is made by such store or concern, such information as may be submitted by the store or concern, as well as such other information as may be available, shall be reviewed by the person or persons designated, who shall, subject to the right of judicial review hereinafter provided, make a determination which shall be final and which shall take effect fifteen days after the date of the delivery or service of such final notice of determination. If the store or concern feels aggrieved by such final determination he may obtain judicial review thereof by filing a complaint against the United States in the United States district court for the district in which he resides or is engaged in business, or in any court of record of the State having competent jurisdiction, within thirty days after the date of delivery or service of the final notice of determination upon him, requesting the court to set aside such determination. The copy of the summons and complaint required to be delivered to the official or agency whose order is being attacked shall be sent to the Secretary or such person or persons as he may designate to receive service of process. The suit in the United States district court or State court shall be a trial de novo by the court in which the court shall determine the validity of the questioned administrative action in issue. If the court determines that such administrative action is invalid it shall enter such judgment or order as it determines is in accordance with the law and the evidence. During the pendency of such judicial review, or any appeal therefrom, the administrative action under review shall be and remain in full force and effect, unless an application to the court on not less than ten days' notice, and after hearing thereon and a showing of irreparable injury, the court temporarily stays such administrative action pending disposition of such trial or appeal.

(Pub. L. 88-525, § 13, Aug. 31, 1964, 78 Stat. 707.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2017, 2020 of this title.

§ 2023. Violations and enforcement; issuance or presentment for redemption of coupons; penalties; coupons as obligations of United States

(a) Notwithstanding any other provisions of this chapter, the Secretary may provide for the purchase, issuance or presentment for redemption of coupons to such person or persons, and at such times and in such manner, as he deems necessary or appropriate to protect the interests of the United States or to insure enforcement of the provisions of this chapter or the regulations issued pursuant to this chapter.

(b) Whoever knowingly uses, transfers, acquires, alters, or possesses coupons or authorization to purchase cards in any manner not authorized by this chapter or the regulations issued pursuant to this chapter shall, if such coupons or authorization to purchase cards are of the value of $100 or more, be guilty of a felony and shall, upon conviction thereof, be fined not more than $10,000 or imprisoned for not more than five years or both, or, if such coupons or authorization to purchase cards are of a value of less than $100, shall be guilty of a misdemeanor and shall, upon conviction thereof, be fined not more than $5,000 or imprisoned for not more than one year, or both.

(c) Whoever presents, or causes to be presented, coupons for payment or redemption of the value of $100 or more, knowing the same to have been received, transferred, or used in any manner in violation of the provisions of this chapter or the regulations issued pursuant to this chapter shall be guilty of a felony and shall, upon conviction thereof, be fined not more than $10,000 or imprisoned for not more than five years, or both, or, if such coupons are of a value of less than $100, shall be guilty of a misdemeanor and shall, upon conviction thereof, be fined not more than $5,000 or imprisoned for not more than one year, or both.

(d) Coupons issued pursuant to this chapter shall be deemed to be obligations of the United States within the meaning of section 8 of title 18.

(Pub. L. 88-525, § 14, Aug. 31, 1964, 78 Stat. 708; Pub. L. 91-671, § 7, Jan. 11, 1971, 84 Stat. 2052; Pub. L. 92-603, title IV, § 411(f), Oct. 30, 1972, 86 Stat. 1492.)

AMENDMENTS

1972—Subsec. (e). Pub. L. 92-603 struck out subsec. (e) which provided that no person be charged with violation of this chapter or any other law on the basis of statements or information contained in affidavits filed under section 2019(c) of this title, except for fraud.

1971—Subsec. (a). Pub. L. 91-671, § 7(a), provided for purchase of coupons.

Subsec. (b). Pub. L. 91-671, § 7(a), included alteration as an offense and made authorization to purchase cards the subject matter of the enumerated offenses.

Subsec. (e). Pub. L. 91-671, § 7(b), added subsec. (e).

EFFECTIVE DATE OF 1972 AMENDMENT

Amendment of section by Pub. L. 92-603 effective Jan. 1, 1973, see section 411(h) of Pub. L. 92-603, set out as a note under section 2012 of this title.

§ 2024. State financing of administrative costs; Federal payments to State agencies; reports on effectiveness of administration of Food Stamp Program; qualified personnel

(a) Except as otherwise provided in this section, each State shall be responsible for financing, from funds available to the State or political subdivision thereof, the costs of carrying out the administrative responsibilities assigned to it under the provisions of this chapter.

(b) The Secretary is authorized to pay to each State agency an amount equal to 50 per centum of all administrative costs, including, but not limited to, the cost of (1) the certification of households; (2) the acceptance, storage, and protection of coupons after their delivery to receiving points within the States; (3) the issuance of such coupons to eligible households; (4) the outreach and fair hearing requirements of section 2019 of this title; and (5) the control

and accounting of coupons: *Provided*, That each State shall, from time to time at the request of the Secretary, report to the Secretary on the effectiveness of its administration of the program and no such payment shall be made to any State unless the Secretary is satisfied pursuant to regulations which he shall issue that an adequate number of qualified personnel are employed by the State in the program to administer the program efficiently and effectively.

(Pub. L. 88-525, § 15, Aug. 31, 1964, 78 Stat. 708; Pub. L. 91-671, § 8, Jan. 11, 1971, 84 Stat. 2052; Pub. L. 93-347, § 2, July 12, 1974, 88 Stat. 341.)

AMENDMENTS

1974—Pub. L. 93-347 authorized the Secretary of Agriculture to pay each State agency 50 percent of all the State agency's costs in administering the Food Stamp Program and required that each State make reports from time to time at the request of the Secretary of Agriculture on the effectiveness of the administration of the Food Stamp Program in that State.

1971—Subsec. (b). Pub. L. 91-671 deleted "cooperate with State agencies in the certification of households which are not receiving any type of public assistance so as to insure the effective certification of such households in accordance with the eligibility standards approved under the provisions of section 2019 of this title. Such cooperation shall include payments to State agencies for part of the cost they incur in the certification of such households" following "is authorized to", and in providing for payments to State agencies, increased percentage from 50 to 62½, and substituted cl. (1) provisions for travel and travel-related cost of personnel for such time as they are employed in taking the action required under section 2019(e) of this title and in making certification determinations for households other than those which consist solely of recipients of welfare assistance for prior cl. (1) for direct salary costs of personnel used to make interviews and such postinterview investigations as are necessary to certify eligibility of such households, for periods of employment, in certifying the eligibility of such households; cl. (2) respecting direct salary, travel, and travel-related costs (including such fringe benefits as are normally paid) of personnel for time of employment as hearing officials under section 2019(e) of this title for prior cl. (2) respecting travel and related costs incurred by personnel in postinterview field investigations of households, and deleted cl. (3) for an amount not to exceed 25 per centum of the costs computed under former cls. (1) and (2).

§ 2025. Authorization of appropriations; limitation of coupon value; deposit of funds; nature of expenditures; reports to Congress

(a) To carry out the provisions of this chapter, there is hereby authorized to be appropriated not in excess of $75,000,000 for the fiscal year ending June 30, 1965; not in excess of $100,000,000 for the fiscal year ending June 30, 1966; and not in excess of $200,000,000 for the fiscal year ending June 30, 1967; not in excess of $200,000,000 for the fiscal year ending June 30, 1968; not in excess of $315,000,000 for the fiscal year ending June 30, 1969; not in excess of $610,000,000 for the fiscal year ending June 30, 1970; not in excess of $1,750,000,000 for the fiscal year ending June 30, 1971; and for the fiscal years ending June 30, 1972 through June 30, 1977 such sums as the Congress may appropriate; and not in excess of such sum as may hereafter be authorized by Congress for any subsequent fiscal period. Sums appropriated under the provisions of this chapter shall, notwithstanding the provisions of any other law, continue to remain available until expended. Such portion of any such appropriation as may be required to pay for the value of the coupon allotments issued to eligible households which is in excess of the charges paid by such household for such allotments shall be transferred to and made a part of the separate account created under section 2016(d) of this title. This chapter shall be carried out only with funds appropriated from the general fund of the Treasury for that specific purpose and in no event shall it be carried out with funds derived from permanent appropriations. On or before January 20 of each year, the Secretary shall submit to Congress a report setting forth operations under this chapter during the preceding calendar year and projecting needs for the ensuing calendar year.

(b) In any fiscal year, the Secretary shall limit the value of those coupons issued which is in excess of the value of coupons for which households are charged, to an amount which is not in excess of the portion of the appropriation for such fiscal year which is transferred to the separate account under the provisions of subsection (a) of this section. If in any fiscal year the Secretary finds that the requirements of participating States will exceed the limitation set forth herein, the Secretary shall direct States agencies to reduce the amount of such coupons to be issued to participating households to the extent necessary to comply with the provisions of this subsection.

(c) If the Secretary determines that any of the funds in the separate account created under section 2016(d) of this title are no longer required to carry out the provisions of this chapter, such portion of such funds shall be paid into the miscellaneous receipts of the Treasury.

(d) Amounts expended under the authority of this chapter shall not be considered amounts expended for the purpose of carrying out the agricultural price-support program and appropriations for the purposes of this chapter shall be considered, for the purpose of budget presentations, to relate to the functions of the Government concerned with welfare.

(Pub. L. 88-525, § 16, Aug. 31, 1964, 78 Stat. 709; Pub. L. 90-91 §§ 1, 2, Sept. 27, 1967, 81 Stat. 228; Pub. L. 90-552, Oct. 8, 1968, 82 Stat. 958; Pub. L. 91-116, Nov. 13, 1969, 83 Stat. 191; Pub. L. 91-671, § 9, Jan. 11, 1971, 84 Stat. 2052; Pub. L. 93-86, § 3(j), Aug. 10, 1973, 87 Stat. 248.)

AMENDMENTS

1973—Subsec. (a). Pub. L. 93-86 extended authorization of appropriations from June 30, 1973 to June 30, 1977, and added provision relating to the availability of appropriated sums.

1971—Subsec. (a). Pub. L. 91-671 is substituted appropriation authorization of "$1,750,000,000 for the fiscal year ending June 30, 1971; and for the fiscal years ending June 30, 1972 and June 30, 1973 such sums as the Congress may appropriate" for "$170,000,000 for the six months ending December 31, 1970".

1969—Subsec. (a). Pub. L. 91-116 increased appropriation authorization limitation for fiscal year ending June 30, 1970, from $340,000,000 to $610,000,000.

1968—Subsec. (a). Pub. L. 90-552 increased appropriations authorization limitation for fiscal year ending June 30, 1969, from $225,000,000 to $315,000,000, au-

thorized appropriations of $340,000,000 and $170,000,000 for fiscal year ending June 30, 1970, and for six months ending Dec. 31, 1970, substituted "fiscal period" for "fiscal year", and provided for submission of reports to Congress on or before January 20 of each year setting forth operations under this chapter during preceding calendar year and projecting needs for ensuing calendar year.

1967—Subsec. (a). Pub. L. 90-91 provided for appropriations for the fiscal years ending June 30, 1968 and 1969, and added provision dealing with the carrying out of this chapter only with funds appropriated from the general fund of the Treasury for the purposes of this chapter.

FISCAL YEAR TRANSITION PERIOD OF JULY 1, 1976, THROUGH SEPTEMBER 30, 1976, DEEMED FISCAL YEAR

Fiscal year transition period of July 1, 1976, through Sept. 30, 1976, deemed fiscal year for purposes of subsec. (b) of this section, see section 201(3) of Pub. L. 94-274, set out as a note under section 343 of this title.

§ 2026. Purchase with coupons of hunting and fishing equipment for procuring food by members of eligible households living in Alaska; rules and regulations

Notwithstanding any other provision of this chapter, members of eligible households living in the State of Alaska shall be permitted in accordance with such rules and regulations as the Secretary may prescribe, to purchase hunting and fishing equipment for the purpose of procuring food for the household except firearms, ammunition, and other explosives, with coupons issued under this chapter if the Secretary determines that (1) such households are located in an area of the State which makes it extremely difficult for members of such households to reach retail food stores, and (2) such households depend to a substantial extent on hunting and fishing for subsistence purposes.

(Pub. L. 88-525, § 17, as added Pub. L. 93-86, § 3(n), Aug. 10, 1973, 87 Stat. 248.)

CHAPTER 52—FARM LABOR CONTRACTOR REGISTRATION

Sec.
2041. Congressional declaration of policy.
2042. Definitions.
2043. Certificate of registration; regular employees of farm labor contractors; period of denial of Federal Employment Service.
2044. Issuance of certificate of registration.
(a) Persons qualified.
(b) Refusal to issue certificate; suspension; revocation; refusal to renew.
(c) Transfer or assignment of certificate; period of effectiveness; renewal.
(d) Change of address, notice; public central registry; documentation of vehicles for transportation and real property for housing of migrant workers.
2045. Obligations and prohibitions.
2046. Authorization to obtain information; hearings or investigations; subpoenas; oaths or affirmations; evidence; application of sections 49 and 50 of title 15; identity confidentiality; purpose of enforcement.
2047. Agreements with Federal and State agencies.
2048. Penalties.
(a) Criminal penalties for violation of chapter; annual report; inclusion of enforcement activities.
(b) Civil penalties for violation of chapter or regulations; separate violations; assessment procedures; notice and hearing, agency and judicial review, substantial evidence; actions for recovery of assessments, finality of orders; payment of collections into the Treasury.
(c) Criminal penalties for section 2045(f) violations, including regulations, respecting failure to obtain, suspension, or revocation of certificates of registration.
2049. Applicability of administrative procedure provisions.
2050. Judicial review; finality of judgment.
2050a. Civil relief.
(a) Federal court jurisdiction.
(b) Representation of complainant; damages; appeals.
(c) Injunction.
(d) Solicitor of Labor representation of Secretary; direction and control of Attorney General.
2050b. Discrimination prohibition; limitations; investigation; appropriate civil relief; back pay or damages.
2050c. Recordkeeping.
2051. Compliance with State laws and regulations.
2052. Separability of provisions.
2053. Rules and regulations.
2054. Waiver of rights.
2055. Authorization of appropriations.

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in title 26 section 3306; title 29 section 774.

§ 2041. Congressional declaration of policy

(a) The Congress hereby finds that the channels and instrumentalities of interstate commerce are being used by certain irresponsible contractors for the services of the migrant agricultural laborers who exploit producers of agricultural products, migrant agricultural laborers, and the public generally, and that, as a result of the use of the channels and instrumentalities of interstate commerce by such irresponsible contractors, the flow of interstate commerce has been impeded, obstructed, and restrained.

(b) It is therefore the policy of this chapter to remove the impediments, obstructions, and restraints occasioned to the flow of interstate commerce by the activities of such irresponsible contractors by requiring that all persons engaged in the activity of contracting for the services of workers for agricultural employment comply with the provisions of this chapter and all regulations prescribed hereunder by the Secretary of Labor.

(Pub. L. 88-582, § 2, Sept. 7, 1964, 78 Stat. 920; Pub. L. 93-518, § 11(d), Dec. 7, 1974, 88 Stat. 1656.)

AMENDMENTS

1974—Subsec. (b). Pub. L. 93-518 substituted "agricultural employment" for "interstate agricultural employment".

EFFECTIVE DATE

Section 15 of Pub. L. 88-582 provided that: "The provisions of this Act [enacting this chapter] shall become effective on January 1, 1965."

SHORT TITLE OF 1974 AMENDMENT

Section 1(a) of Pub. L. 93-518 provided that: "This Act [which enacted sections 2050a to 2050c, 2054, and 2055, and amended sections 2041 to 2046, 2048, and 2053 of this title] may be cited as the 'Farm Labor Contractor Registration Act Amendments of 1974'."

SHORT TITLE

Section 1 of Pub. L. 88-582 provided that Pub. L. 88-582, which enacted this chapter, may be cited as the "Farm Labor Contractor Registration Act of 1963".

§ 2042. Definitions

As used in this chapter—

(a) The term "person" includes any individual, partnership, association, joint stock company, trust, or corporation.

(b) The term "farm labor contractor" means any person, who, for a fee, either for himself or on behalf of another person, recruits, solicits, hires, furnishes, or transports migrant workers (excluding members of his immediate family) for agricultural employment. Such term shall not include—

(1) any nonprofit charitable organization, public or nonprofit private educational institution, or similar organization;

(2) any farmer, processor, canner, ginner, packing shed operator, or nurseryman who personally engages in any such activity for the purpose of supplying migrant workers solely for his own operation;

(3) any full-time or regular employee of any entity referred to in (1) or (2) above who engages in such activity solely for his employer on no more than an incidental basis;

(4) any person who engages in any such activity (A) solely within a twenty-five mile intrastate radius of his permanent place of residence and (B) for not more than thirteen weeks per year;

(5) any person who engages in any such activity for the purpose of obtaining migrant workers of any foreign nation for employment in the United States if the employment is subject to—

(A) an agreement between the United States and such foreign nation; or

(B) an arrangement with the government of any foreign nation under which written contracts for the employment of such workers are provided for and the enforcement thereof is provided for through the United States by an instrumentality of such foreign nation;

(6) any full-time or regular employee of any person holding a certificate of registration under this chapter;

(7) any common carrier or any full-time regular employee thereof engaged solely in the transportation of migrant workers;

(8) any custom combine, hay harvesting, or sheep shearing operation, or

(9) any custom poultry harvesting, breeding, debeaking, sexing, or health service operation, provided the employees of the operation are not regularly required to be away from their domicile other than during their normal working hours.

(c) The term "fee" includes any money or other valuable consideration paid or promised to be paid to a person for services as a farm labor contractor.

(d) The term "agricultural employment" means employment in any service or activity included within the provisions of section 203(f) of title 29, or section 3121(g) of title 26 and the handling, planting, drying, packing, packaging, processing, freezing, or grading prior to delivery for storage of any agricultural or horticultural commodity in its unmanufactured state.

(e) The term "Secretary" means the Secretary of the United States Department of Labor or his duly authorized representative.

(f) The term "State" means any of the States of the United States, the District of Columbia, the Virgin Islands, the Commonwealth of Puerto Rico, and Guam.

(g) The term "migrant worker" means an individual whose primary employment is in agriculture, as defined in section 203(f) of title 29, or who performs agricultural labor, as defined in section 3121(g) of title 26, on a seasonal or other temporary basis.

(Pub. L. 88-582, § 3, Sept. 7, 1964, 78 Stat. 920; Pub. L. 93-518, §§ 2, 3, Dec. 7, 1974, 88 Stat. 1652, 1653; Pub. L. 94-259, § 2, Apr. 5, 1976, 90 Stat. 314; Pub. L. 94-561, § 6, Oct. 19, 1976, 90 Stat. 2644.)

AMENDMENTS

1976—Subsec. (b). Pub. L. 94-259 added par. (8).

Pub. L. 94-561 added par. (9).

1974—Subsec. (b). Pub. L. 93-518, § 2, deleted "interstate" preceding "agricultural employment" in first sentence; redesignated former clauses as paragraphs; reenacted provisions of pars. (1) and (2); excluded from term "farm labor contractor" in par. (3) any employee who engages in the described activity solely for his employer on no more than an incidental basis; added par. (4); redesignated former par. (4) as (5), redesignating clauses (A) and (B) as subpars. (A) and (B); and added pars. (6) and (7).

Subsec. (d). Pub. L. 93-518, § 3, deleted "interstate" preceding "agricultural employment", expanded definition of "agricultural employment" to include the handling, planting, drying, packing, packaging, processing, freezing, or grading prior to delivery for storage of any agricultural or horticultural commodity in its unmanufactured state, and deleted prior provision which limited the service or activity to one performed by an individual worker who has been transported from one State to another or from any place outside of a State to any place within a State.

§ 2043. Certificate of registration; regular employees of farm labor contractors; period of denial of Federal Employment Service

(a) No person shall engage in activities as a farm labor contractor unless he first obtains a certificate of registration from the Secretary, and unless such certificate is in full force and effect and is in such person's immediate possession.

(b) A full-time or regular employee of any person holding a valid certificate of registration under the provisions of this chapter shall not, for the purpose of engaging in activities as a farm labor contractor solely on behalf of such person, be required to obtain a certificate of registration hereunder in his own name. Any such employee shall be required to have in his immediate personal possession when engaging in such activities such identification as the Sec-

retary may require showing such employee to be an employee of, and duly authorized to engage in activities as a farm labor contractor for, a person holding a valid certificate of registration under the provisions of this chapter. Except as provided in the foregoing provisions of this subsection, any such employee shall be subject to the provisions of this chapter and regulations prescribed hereunder to the same extent as if he were required to obtain a certificate of registration in his own name.

(c) No person shall engage the services of any farm labor contractor to supply farm laborers unless he first determines that the farm labor contractor possesses a certificate from the Secretary that is in full force and effect at the time he contracts with the farm labor contractor.

(d) Upon determination by the Secretary that any person knowingly has engaged the services of any farm labor contractor who does not possess such certificate as required by subsection (c) of this section, the Secretary is authorized to deny such person the facilities and services authorized by the Act of June 6, 1933 (29 U.S.C. 49 et seq.), commonly referred to as the Wagner-Peyser Act, for a period of up to three years.

(Pub. L. 88-582, § 4, Sept. 7, 1964, 78 Stat. 921; Pub. L. 93-518, § 4, Dec. 7, 1974, 88 Stat. 1653.)

REFERENCES IN TEXT

The Wagner-Peyser Act, referred to in subsec. (d), is act June 6, 1933, ch. 49, §§ 1 to 13, 48 Stat. 113, and is classified generally to chapter 4B (§ 49 et seq.) of Title 29, Labor. For complete classification of this Act to the Code, see Tables volume.

AMENDMENTS

1974—Subsecs. (c), (d). Pub. L. 93-518 added subsecs. (c) and (d).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2044 of this title.

§ 2044. Issuance of certificate of registration

(a) Persons qualified

The Secretary shall, after appropriate investigation, issue a certificate of registration under this chapter to any person who—

(1) has executed and filed with the Secretary a written application subscribed and sworn to by the applicant containing such information (to the best of his knowledge and belief) concerning his conduct and method of operation as a farm labor contractor as the Secretary may require in order effectively to carry out the provisions of this chapter;

(2) has filed, within such time as the Secretary may prescribe, proof satisfactory to the Secretary of the financial responsibility of the applicant or proof satisfactory to the Secretary of the existence of a policy of insurance which insures such applicant against liability for damages to persons or property arising out of the applicant's ownership of, operation of, or his causing to be operated any vehicle for the transportation of migrant workers in connection with his business, activities, or operations as a farm labor contractor. In no event shall the amount of such insurance be less than the amount currently applicable to vehicles used in the transportation of passengers in interstate commerce under the Interstate Commerce Act and regulations promulgated pursuant thereto, or amounts offering comparable protection to persons or property from damages arising out of the applicant's ownership of, operation of, or his causing to be operated any vehicle as provided herewith: *Provided,* That the Secretary shall have the discretion to issue regulations requiring insurance in the highest amounts feasible which are less than the amounts currently applicable to vehicles used in the transportation of passengers in interstate commerce under the Interstate Commerce Act and regulations promulgated pursuant thereto, if the Secretary, after due and careful consideration, determines that the insurance coverage in such amounts is not available to farm labor contractors in the same manner and in the same amounts as such coverage is available to other carriers used to transport passengers in interstate commerce;

(3) has filed, within such time as the Secretary may prescribe, a set of his fingerprints;

(4) has filed, under such terms as the Secretary may prescribe, a statement identifying each vehicle to be used by the applicant for the transportation of migrant workers, and all real property to be used by the applicant for the housing of migrant workers, during the period for which registration is sought, along with proof that every such vehicle and all such housing currently conform to all applicable Federal and State safety and health standards to the extent that such vehicle and all such housing are under the applicant's ownership or control; and

(5) has consented to designation of the Secretary as the agent available to accept service of summons in any action against such farm labor contractor, at any and all times during which such farm labor contractor has departed from the jurisdiction in which such action is commenced or otherwise has become unavailable to accept service, under such terms and conditions as are set by the court in which such action had been commenced.

(b) Refusal to issue certificate; suspension; revocation; refusal to renew

Upon notice and hearing in accordance with regulations prescribed by him, the Secretary may refuse to issue, and may suspend, revoke, or refuse to renew a certificate of registration to any farm labor contractor if he finds that such contractor—

(1) knowingly has made any misrepresentations or false statements in his application for a certificate of registration or any renewal thereof;

(2) knowingly has given false or misleading information to migrant workers concerning the terms, conditions, or existence of agricultural employment;

(3) has failed, without justification, to perform agreements entered into or arrangements with farm operators;

(4) has failed, without justification, to comply with the terms of any working arrangements he has made with migrant workers;

(5) has failed to show financial responsibility satisfactory to the Secretary required by subsection (a)(2) of this section or has failed to keep in effect a policy of insurance required by subsection (a)(2) of this section;

(6) has recruited, employed, or utilized with knowledge, the services of any person, who is an alien not lawfully admitted for permanent residence, or who has not been authorized by the Attorney General to accept employment;

(7) has been convicted of any crime under State or Federal law relating to gambling or to the sale, distribution, or possession of alcoholic liquors in connection with or incident to his activities as a farm labor contractor; or has been convicted of any crime under State or Federal law involving robbery, bribery, extortion, embezzlement, grand larceny, burglary, arson, violation of narcotics laws, murder, rape, assault with intent to kill, assault which inflicts grievous bodily injury, prostitution, or peonage; where the date of the judgment of conviction of any crime as specified herein has been entered within a period of five years preceding the action of the Secretary under this subsection;

(8) has failed to comply with rules and regulations promulgated by the Interstate Commerce Commission that are applicable to his activities and operations in interstate commerce;

(9) knowingly employs or continues to employ any person to whom subsection (b) of section 2043 of this title applies who has taken any action, except for that listed in paragraph (5) of this subsection, which could be used by the Secretary under this subsection to refuse to issue a certificate of registration;

(10) has failed to comply with any of the provisions of this chapter or any regulations issued hereunder;

(11) is not in fact the real party in interest in any such application or certificate of registration and that the real party in interest is a person, firm, partnership, association, or corporation who previously has been denied a certificate of registration, has had a certificate of registration suspended or revoked, or who does not presently qualify for a certificate or [1] registration; or

(12) has used a vehicle for the transportation of migrant workers, or has used real property for the housing of migrant workers, while such vehicle or real property failed to conform to all applicable Federal and State safety and health standards, to the extent any such vehicle or real property has come within the ownership or control of such farm labor contractor.

(c) Transfer or assignment of certificate; period of effectiveness; renewal

A certificate of registration, once issued, may not be transferred or assigned and shall be effective for the remainder of the calendar year during which it is issued, unless suspended or revoked by the Secretary as provided in this chapter. A certificate of registration may be renewed each calendar year upon approval by the Secretary of an application for its renewal.

[1] So in original.

(d) Change of address, notice; public central registry; documentation of vehicles for transportation and real property for housing of migrant workers

Persons issued a certificate of registration under this section shall provide the Secretary a notice of each and every address change within ten days after such change. The Secretary shall maintain a public central registry of all persons issued certificates of registration under this section. Persons issued a certificate of registration under this section shall provide to the Secretary documentation required under subsection (a)(4) of this section applicable to any vehicle which the applicant obtains for use in the transportation of migrant workers and any real property which the applicant obtains or learns will be used for the housing of migrant workers during the period for which the certificate of registration is issued, within ten days after he obtains or learns of the intended use of such vehicle or real property, to the extent that such vehicle or such real property is under the ownership or control of such persons who have been issued certificates of registration.

(Pub. L. 88-582, § 5, Sept. 7, 1964, 78 Stat. 921; Pub. L. 93-518, §§ 5-8, Dec. 7, 1974, 88 Stat. 1653-1655.)

REFERENCES IN TEXT

Interstate Commerce Act, referred to in subsec. (a)(2), is act Feb. 4, 1887, ch. 104, 24 Stat. 379, and is classified generally to chapters 1 (§ 1 et seq.), 8 (§ 301 et seq.), 12 (§ 901 et seq.), 13 (§ 1001 et seq.), and 19 (§ 1231 et seq.) of Title 49, Transportation. For complete classification of this Act to the Code, see note captioned Interstate Commerce Act, set out under section 27 of Title 49, and Tables volume.

AMENDMENTS

1974—Subsec. (a)(2). Pub. L. 93-518, § 6, substituted provisions adopting insurance coverage requirements of Interstate Commerce Act, including proviso for issuance of regulations for coverage in a lesser amount than required under the Act where coverage is not available in higher amounts to farm labor contractors, for prior provisions for insurance coverage in amounts required under State law when conducting business operations therein, including minimum amounts of $5,000 for injury or death of one person, $20,000 for injury or death of many persons in one accident, and $5,000 for property damages or loss to other persons in one accident.

Subsecs. (a)(4), (5). Pub. L. 93-518, § 5, added subsecs. (4) and (5).

Subsec. (b)(6). Pub. L. 93-518, § 7(5), substituted "utilized, with knowledge, the services of any person, who is an alien not lawfully admitted for permanent residence, or who has not been authorized by the Attorney General to accept employment" for "utilized the services of a person with knowledge that such person is violating the provisions of the immigration and nationality laws of the United States".

Subsec. (b)(7). Pub. L. 93-518, § 7(4), included conviction of crime of peonage and limited the convictions to those where date of entry of judgment of conviction of any of the specified crimes was within a period of five years preceding action of the Secretary.

Subsecs. (b)(11), (12). Pub. L. 93-518, § 7, added subsecs. (11) and (12).

Subsec. (d). Pub. L. 93-518, § 8, added subsec. (d).

§ 2045. Obligations and prohibitions

Every farm labor contractor shall—

(a) carry his certificate of registration with him at all times while engaging in activities as a farm labor contractor and exhibit the same

to all persons with whom he intends to deal in his capacity as a farm labor contractor prior to so dealing and shall be denied the facilities and services authorized by the Act of June 6, 1933 (29 U.S.C. 49 et seq.), upon refusal or failure to exhibit the same;

(b) ascertain and disclose to each worker at the time the worker is recruited the following information to the best of his knowledge and belief: (1) the area of employment, (2) the crops and operations on which he may be employed, (3) the transportation, housing, and insurance to be provided him, (4) the wage rates to be paid him, (5) the charges to be made by the contractor for his services, (6) the period of employment, (7) the existence of a strike or other concerted stoppage, slowdown, or interruption of operations by employees at a place of contracted employment, and (8) the existence of any arrangements with any owner, proprietor, or agent of any commercial or retail establishment in the area of employment under which he is to receive a commission or any other benefit resulting from any sales provided to such commercial or retail establishment from the migrant workers whom he recruits. The disclosure required under this subsection shall be in writing in a language in which the worker is fluent, and written in a manner understandable by such workers on such forms and under such terms and conditions as the Secretary shall prescribe;

(c) upon arrival at a given place of employment, post in a conspicuous place a written statement of the terms and conditions of that employment;

(d) in the event he manages, supervises, or otherwise controls the housing facilities, post in a conspicuous place the terms and conditions of occupancy;

(e) in the event he pays migrant workers engaged in agricultural employment, either on his own behalf or on behalf of another person, keep payroll records which shall show for each worker total earnings in each payroll period, all withholdings from wages, and net earnings. In addition, for workers employed on a time basis, the number of units of time employed and the rate per unit of time shall be recorded on the payroll records, and for workers employed on a piece rate basis, the number of units of work performed and the rate per unit shall be recorded on such records. In addition he shall provide to each migrant worker engaged in agricultural employment with whom he deals in a capacity as a farm labor contractor a statement of all sums paid to him (including sums received on behalf of such migrant worker) on account of the labor of such migrant worker. He shall also provide each such worker with an itemized statement showing all sums withheld by him from the amount he received on account of the labor of such worker, and the purpose for which withheld. He shall additionally provide to the person to whom any migrant worker is furnished all information and records required to be kept by such contractor under this subsection, and all information required to be provided to any migrant worker under this subsection. The Secretary may prescribe appropriate forms for the recording of information required by this subsection;

(f) refrain from recruiting, employing, or utilizing, with knowledge, the services of any person, who is an alien not lawfully admitted for permanent residence or who has not been authorized by the Attorney General to accept employment;

(g) promptly pay or contribute when due to the individuals entitled thereto all moneys or other things of value entrusted to the farm labor contractor by any farm operator for such purposes; and

(h) refrain from requiring any worker to purchase any goods solely from such farm labor contractor or any other person.

(Pub. L. 88-582, § 6, Sept. 7, 1964, 78 Stat. 922; Pub. L. 93-518, §§ 9, 10, 11(a)-(c), Dec. 7, 1974, 88 Stat. 1655, 1656.)

REFERENCES IN TEXT

Act of June 6, 1933, referred to in subsec. (a), is act June 6, 1933, ch. 49, §§ 1 to 13, 48 Stat. 113, popularly known as the Wagner-Peyser Act, and is classified generally to chapter 4B (§ 49 et seq.) of Title 29, Labor. For complete classification of this Act to the Code, see Tables volume.

AMENDMENTS

1974—Subsec. (a). Pub. L. 93-518, § 9, authorized denial of facilities and services authorized by the Act of June 6, 1933, for refusal or failure to exhibit the certificate of registration.

Subsec. (b). Pub. L. 93-518, § 10, added clauses (6) to (8) and provision respecting disclosure requirements.

Subsec. (e). Pub. L. 93-518, § 11(b), (c), deleted "interstate" preceding "agricultural employment" in two instances, required the farm labor contractor to provide the person furnished with any migrant worker with all information and records required to be kept by the contractor and all information required to be provided to the migrant worker, and substituted in last sentence "appropriate forms for the recording of information required by this subsection" for "an appropriate form for recording such information".

Subsecs. (f) to (h). Pub. L. 93-518, § 11(a), added subsecs. (f) to (h).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2048, 2050c of this title.

§ 2046. Authorization to obtain information; hearings or investigations; subpoenas; oaths or affirmations; evidence; application of sections 49 and 50 of title 15; identity confidentiality; purpose of enforcement

The Secretary or his designated representative may investigate and gather data with respect to matters which may aid in carrying out the provisions of this chapter. In any case in which a complaint has been filed with the Secretary regarding a violation of this chapter or with respect to which the Secretary has reasonable grounds to believe that a farm labor contractor has violated any provisions of this chapter, the Secretary or his designated representative may investigate and gather data respecting such case, and may, in connection therewith, enter and inspect such places and such records (and make such transcriptions thereof), question such persons, and investigate such facts, conditions, practices, or matters as may be necessary or appropriate to determine whether a violation of this chapter has been committed.

The Secretary may issue subpenas requiring the attendance and testimony of witnesses or the production of any evidence in connection with such investigations. The Secretary may administer oaths and affirmations, examine witnesses, and receive evidence. For the purpose of any hearing or investigation provided for in this chapter, the provisions of sections 49 and 50 of title 15 (relating to the attendance of witnesses and the production of books, papers, and documents), are made applicable to the jurisdiction, powers, and duties of the Secretary. The Secretary shall conduct investigations in a manner which protects the confidentiality of any complainant or other party who provides information to the Secretary with respect to which the Secretary commences an investigation. The Secretary shall monitor and investigate activities of farm labor contractors in such manner as is necessary to enforce the provisions of this chapter.

(Pub. L. 88-582, § 7, Sept. 7, 1964, 78 Stat. 923; Pub. L. 93-518, § 12, Dec. 7, 1974, 88 Stat. 1656.)

AMENDMENTS

1974—Pub. L. 93-518 added provisions respecting issuance of subpenas, administration of oaths and affirmations, examination of witnesses and receipt of evidence, application of sections 49 and 50 of title 15, identity confidentiality, and enforcement objective.

§ 2047. Agreements with Federal and State agencies

The Secretary is authorized to enter into agreements with Federal and State agencies, to utilize (pursuant to such agreements) the facilities and services of the agencies, and to delegate to the agencies such authority, other than rulemaking, as he deems necessary in carrying out the provisions of this chapter, and to allocate or transfer funds or otherwise to pay or to reimburse such agencies for expenses in connection therewith.

(Pub. L. 88-582, § 8, Sept. 7, 1964, 78 Stat. 923.)

§ 2048. Penalties

(a) Criminal penalties for violation of chapter; annual report: inclusion of enforcement activities

Any farm labor contractor or employee thereof who willfully and knowingly violates any provision of this chapter shall be fined not more than $500, sentenced to a prison term not to exceed one year, or both, and upon conviction for any subsequent violation, shall be punishable by a fine not to exceed $10,000 or sentenced to a prison term not to exceed three years, or both. The Secretary shall report on enforcement of the provisions of this chapter in the annual report of the Secretary required pursuant to section 560 of title 29. The reporting hereunder shall include, but shall not be limited to, a description of efforts to monitor and investigate the activities of farm labor contractors, the number of persons to whom certificates of registration have been issued, the number of complaints of violation received by the Secretary and their disposition, and the number and nature of any sanctions imposed.

(b) Civil penalties for violation of chapter or regulations; separate violations; assessment procedures: notice and hearing, agency and judicial review, substantial evidence; actions for recovery of assessments, finality of orders; payment of collections into the Treasury

(1) Any person who commits a violation of this chapter or any regulations promulgated under this chapter, may be assessed a civil money penalty of not more than $1,000 for each violation. The penalty shall be assessed by the Secretary upon written notice, under the procedures set forth herein.

(2) The person assessed shall be afforded an opportunity for agency hearing, upon request made within thirty days after the date of issuance of the notice of assessment. In such hearing, all issues shall be determined on the record pursuant to section 554 of title 5. The agency determination shall be made by final order subject to review only as provided in paragraph (3). If no hearing is requested as herein provided, the assessment shall constitute a final and unappealable order.

(3) Any person against whom an order imposing a civil money penalty has been entered after an agency hearing under this section may obtain review by the United States district court for any district in which he is located or the United States District Court for the District of Columbia by filing a notice of appeal in such court within thirty days from the date of such order, and simultaneously sending a copy of such notice by registered mail to the Secretary. The Secretary shall promptly certify and file in such court the record upon which the penalty was imposed. The findings of the Secretary shall be set aside if found to be unsupported by substantial evidence as provided by section 706(2)(E) of title 5.

(4) If any person fails to pay an assessment after it has become a final and unappealable order, or after the court has entered final judgment in favor of the agency, the Secretary shall refer the matter to the Attorney General, who shall recover the amount assessed by action in the appropriate United States district court. In such action the validity and appropriateness of the final order imposing the penalty shall not be subject to review.

(5) All penalties collected under authority of this section shall be paid into the Treasury of the United States.

(c) Criminal penalties for section 2045(f) violations, including regulations, respecting failure to obtain, suspension, or revocation of certificates of registration

Notwithstanding subsections (a) and (b) of this section, any farm labor contractor who commits a violation of section 2045(f) of this title or any regulations promulgated thereunder shall upon conviction be fined not to exceed $10,000 or sentenced to a prison term not to exceed three years, or both, if the person committing such violation has failed to obtain a certificate of registration pursuant to this chapter or is one whose certificate has been suspended or revoked by the Secretary.

(Pub. L. 88-582, § 9, Sept. 7, 1964, 78 Stat. 924; Pub. L. 93-518, § 13, Dec. 7, 1974, 88 Stat. 1656.)

AMENDMENTS

1974—Subsec. (a) Pub. L. 93-518 designated existing provisions as subsec. (a), made the penalty provision inapplicable to violation of regulations prescribed under this chapter (now covered in subsecs. (b)(1) and (c) of this section), provided additionally for a prison term not to exceed one year or such term and a fine for first violations, and a fine not to exceed $10,000 or a prison term not to exceed three years, or both for subsequent violations, and for inclusion of certain enforcement activities in the annual report of the Secretary of Labor to Congress.

Subsecs. (b), (c). Pub. L. 93-518 added subsecs. (b) and (c).

§ 2049. Applicability of administrative procedure provisions.

The provisions of subchapter II of chapter 5, and chapter 7, of title 5 shall apply to all administrative proceedings conducted pursuant to the authority contained in this chapter.

(Pub. L. 88-582, § 10, Sept. 7, 1964, 78 Stat. 924.)

CODIFICATION

"Subchapter II of chapter 5, and chapter 7, of title 5" was substituted for "the Administrative Procedure Act" on authority of section 7(b) of Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 631, the first section of which enacted Title 5, Government Organization and Employees.

§ 2050. Judicial review; finality of judgment

Any person aggrieved by any order of the Secretary in refusing to issue or renew, or in suspending or revoking, a certificate of registration may obtain a review of any such order by filing in the district court of the United States for the district wherein such person resides or has his principal place of business, or in the United States District Court for the District of Columbia, and serving upon the Secretary, within thirty days after the entry of such order, a written petition praying that the order of the Secretary be modified or set aside in whole or in part. Upon receipt of any such petition, the Secretary shall file in such court a full, true, and correct copy of the transcript of the proceedings upon which the order complained of was entered. Upon the filing of such petition and receipt of such transcript, such court shall have jurisdiction to affirm, set aside, modify, or enforce such order, in whole or in part. In any such review, the findings of fact of the Secretary shall not be set aside if supported by substantial evidence. The judgment and decree of the court shall be final, subject to review as provided in sections 1254 and 1291 of Title 28.

(Pub. L. 88-582, § 11, Sept. 7, 1964, 78 Stat. 924.)

§ 2050a. Civil relief

(a) Federal court jurisdiction

Any person claiming to be aggrieved by the violation of any provision of this chapter or any regulation prescribed hereunder may file suit in any district court of the United States having jurisdiction of the parties without respect to the amount in controversy or without regard to the citizenship of the parties and without regard to exhaustion of any alternative administrative remedies provided herein.

(b) Representation of complainant; damages; appeals

Upon application by the complainant and in such circumstances as the court may deem just, the court may appoint an attorney for such complainant and may authorize the commencement of the action. If the court finds that the respondent has intentionally violated any provision of this chapter or any regulation prescribed hereunder, it may award damages up to and including an amount equal to the amount of actual damages, or $500 for each violation, or other equitable relief. Any civil action brought under this section shall be subject to appeal as provided in chapter 83 of title 28.

(c) Injunction

If upon investigation the Secretary determines that the provisions of this chapter have been violated, he may petition any appropriate district court of the United States for temporary or permanent injunctive relief.

(d) Solicitor of Labor representation of Secretary; direction and control of Attorney General

Except as provided in section 518(a) of title 28, relating to litigation before the Supreme Court, the Solicitor of Labor may appear for and represent the Secretary in any civil litigation brought under this chapter but all such litigation shall be subject to the direction and control of the Attorney General.

(Pub. L. 88-582, § 12, as added Pub. L. 93-518, § 14(a), Dec. 7, 1974, 88 Stat. 1657.)

§ 2050b. Discrimination prohibition; limitations; investigation; appropriate civil relief: back pay or damages

(a) No person shall intimidate, threaten, restrain, coerce, blacklist, discharge, or in any manner discriminate against any migrant worker because such worker has, with just cause, filed any complaint or instituted or caused to be instituted any proceeding under or related to this chapter or has testified or is about to testify in any such proceedings or because of the exercise, with just cause, by such worker on behalf of himself or others of any right or protection afforded by this chapter.

(b) Any worker who believes, with just cause, that he has been discriminated against by any person in violation of this section may, within one hundred eighty days after such violation occurs, file a complaint with the Secretary alleging such discrimination. Upon receipt of such complaint, the Secretary shall cause such investigation to be made as he deems appropriate. If upon such investigation, the Secretary determines that the provisions of this section have been violated, he shall bring an action in any appropriate United States district court against such person. In any such action, the United States district courts shall have jurisdiction, for cause shown, to restrain violation of subsection (a) of this section and order all appropriate relief including rehiring or reinstatement of the worker, with back pay, or damages.

(Pub. L. 88-582, § 13, as added Pub. L. 93-518, § 14(a), Dec. 7, 1974, 88 Stat. 1658.)

§ 2050c. Recordkeeping

Any person who is furnished any migrant worker by a farm labor contractor shall main-

tain all payroll records required to be kept by such person under Federal law, and with respect to migrant workers paid by a farm labor contractor such person shall also obtain from the contractor and maintain records containing the information required to be provided to him by the contractor under section 2045(e) of this title.

(Pub. L. 88-582, § 14, as added Pub. L. 93-518, § 14(a), Dec. 7, 1974, 88 Stat. 1658.)

§ 2051. Compliance with State laws and regulations

This chapter and the provisions contained herein are intended to supplement State action and compliance with this chapter shall not excuse anyone from compliance with appropriate State law and regulation.

(Pub. L. 88-582, § 15, formerly § 12, Sept. 7, 1964, 78 Stat. 924, renumbered Pub. L. 93-518, § 14(a), Dec. 7, 1974, 88 Stat. 1657.)

§ 2052. Separability of provisions

If any provision of this chapter, or the application thereof to any person or circumstance, shall be held invalid, the remainder of the chapter and the application of such provision to other persons or circumstances shall not be affected thereby.

(Pub. L. 88-582, § 16, formerly § 13, Sept. 7, 1964, 78 Stat. 924, renumbered Pub. L. 93-518, § 14(a), Dec. 7, 1974, 88 Stat. 1657.)

§ 2053. Rules and regulations

The Secretary is authorized to issue such rules and regulations as he determines necessary for the purpose of carrying out the provisions of this chapter.

(Pub. L. 88-582, § 17, formerly § 14, Sept. 7, 1964, 78 Stat. 924, renumbered and amended Pub. L. 93-518, §§ 14(a), 16, Dec. 7, 1974, 88 Stat. 1657, 1659.)

AMENDMENTS

1974—Pub. L. 93-518, § 16, substituted reference to this chapter for reference to sections 2043 to 2045, and 2047 of this title.

§ 2054. Waiver of rights

Any agreement by an employee purporting to waive or to modify his rights hereunder shall be void as contrary to public policy, except a waiver or modification of rights or obligations hereunder in favor of the Secretary shall be valid for purposes of enforcement of the provisions of this chapter.

(Pub. L. 88-582, § 18, as added Pub. L. 93-518, § 15, Dec. 7, 1974, 88 Stat. 1658.)

§ 2055. Authorization of appropriations

There are authorized to be appropriated to carry out the purposes of this chapter such sums as may be necessary for the effective enforcement of this chapter.

(Pub. L. 88-582, § 19, as added Pub. L. 93-518, § 15, Dec. 7, 1974, 88 Stat. 1659.)

CHAPTER 53—COTTON RESEARCH AND PROMOTION

Sec.
2101. Congressional declaration of policy.
2102. Orders of Secretary to cotton handlers.
2103. Notice and hearing upon proposed orders.
2104. Finding and issuance of orders.
2105. Permissive terms and conditions in orders.
2106. Required terms and conditions in orders.
2107. Referendum and cotton producer approval of orders.
2108. Suspension and termination of orders.
2109. Applicability of provisions to amendments.
2110. Refund of producer assessments.
2111. Administrative review of orders; petition; hearing; judicial review.
2112. Enforcement of orders; penalty for willful violation.
2113. Certification of cotton producer organizations.
2114. Rules and regulations.
2115. Investigations by Secretary; subpenas; oaths and affirmations; judicial aid.
2116. Definitions.
2117. Separability of provisions.
2118. Authorization of appropriations.
2119. Programs of Commodity Credit Corporation.

§ 2101. Congressional declaration of policy

Cotton is the basic natural fiber of the Nation. It is produced by many individual cottongrowers throughout the various cotton-producing States of the Nation. Cotton moves in large part in the channels of interstate and foreign commerce and such cotton which does not move in such channels directly burdens or affects interstate commerce in cotton and cotton products. All cotton produced in the United States is in the current of interstate or foreign commerce or directly burdens, obstructs, or affects interstate or foreign commerce in cotton and cotton products. The efficient production of cotton and the maintenance and expansion of existing markets and the development of new or improved markets and uses is vital to the welfare of cottongrowers and those concerned with marketing, using, and processing cotton as well as the general economy of the Nation. In the years since World War II, United States cotton and the products thereof have been confronted with intensive competition, both at home and abroad, from foreign-grown cotton and from other fibers, primarily manmade fibers. The great inroads on the market and uses for United States cotton which have been made by manmade fibers have been largely the result of extensive research and promotion which have not been effectively matched by cotton research and promotion. The production and marketing of cotton by numerous individual farmers have prevented the development and carrying out of adequate and coordinated programs of research and promotion necessary to the maintenance and improvement of the competitive position of, and markets for, cotton. Without an effective and coordinated method for assuring cooperative and collective action in providing for, and financing such programs, individual cotton farmers are unable adequately to provide or obtain the research and promotion necessary to maintain and improve markets for cotton.

It has long been found to be in the public interest to have, or endeavor to have, a reasonable balance between the supply of and demand

for cotton grown in this country. To serve this public interest the Congress has provided for the comprehensive exercise of regulatory authority in regulating the handling of such cotton supplemented by price-support programs with the objective of adjusting supply to demand in the interest of benefiting producers and all others concerned with the production and handling of cotton as well as the general economy of the country. In order for the objective of such programs to be effectuated to the fullest degree, it is necessary that the existing regulation of marketing be supplemented by providing as part of the overall governmental program for effectuating this objective, means of increasing the demand for cotton with the view of eventually reducing or eliminating the need for limiting marketings and supporting the price of cotton.

It is therefore declared to be the policy of the Congress and the purpose of this chapter that it is essential in the public interest through the exercise of the powers provided herein, to authorize and enable the establishment of an orderly procedure for the development, financing through adequate assessments on all cotton harvested in the United States, and carrying out an effective and continuous coordinated program of research and promotion designed to strengthen cotton's competitive position and to maintain and expand domestic and foreign markets and uses for United States cotton.

(Pub. L. 89–502, § 2, July 13, 1966, 80 Stat. 279.)

EFFECTIVE DATE

Section 20 of Pub. L. 89–502 provided that: "This Act [enacting this chapter] shall take effect upon enactment [July 13, 1966]".

SHORT TITLE

Section 1 of Pub. L. 89–502 provided that Pub. L. 89–502, which enacted this chapter, shall be known as the "Cotton Research and Promotion Act".

§ 2102. Orders of Secretary to cotton handlers

To effectuate the declared policy of this chapter, the Secretary shall, subject to the provisions of this chapter, issue and from time to time amend, orders applicable to persons engaged in the harvesting, marketing, ginning, or other handling of cotton, hereinafter referred to as handlers. Such orders shall be applicable to all production or marketing areas, or both, in the United States.

(Pub. L. 89–502, § 3, July 13, 1966, 80 Stat. 280.)

§ 2103. Notice and hearing upon proposed orders

Whenever the Secretary has reason to believe that the issuance of an order will tend to effectuate the declared policy of this chapter, he shall give due notice and opportunity for a hearing upon a proposed order. Such hearing may be requested and a proposal for an order submitted by any cotton producer organization certified pursuant to section 2113 of this title or by any other interested person or persons, including the Secretary.

(Pub. L. 89–502, § 4, July 13, 1966, 80 Stat. 280.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2104, 2113 of this title.

§ 2104. Finding and issuance of orders

After notice and opportunity for hearing as provided in section 2103 of this title, the Secretary shall issue an order if he finds, and sets forth in such order, upon the evidence introduced at such hearing, that the issuance of such order and all the terms and conditions thereof will tend to effectuate the declared policy of this chapter.

(Pub. L. 89–502, § 5, July 13, 1966, 80 Stat. 280.)

§ 2105. Permissive terms and conditions in orders

Orders issued pursuant to this chapter shall contain one or more of the following terms and conditions, and except as provided in section 2106 of this title, no others.

(a) Providing for the establishment, issuance, effectuation, and administration of appropriate plans or projects for the advertising and sales promotion of cotton and its products and for the disbursement of necessary funds for such purposes: *Provided, however,* That any such plan or project shall be directed toward increasing the general demand for cotton or its products but no reference to a private brand or trade name shall be made if the Secretary determines that such reference will result in undue discrimination against the cotton products of other persons: *And provided further,* That no such advertising or sales promotion programs shall make use of false or unwarranted claims in behalf of cotton or its products or false or unwarranted statements with respect to the quality, value, or use of any competing product.

(b) Providing for establishing and carrying on research and development projects and studies with respect to the production, ginning, processing, distribution, or utilization of cotton and its products, to the end that the marketing and utilization of cotton may be encouraged, expanded, improved, or made more efficient, and for the disbursement of necessary funds for such purposes.

(c) Providing that handlers or any class of handlers maintain and make available for inspection such books and records as may be required by the order and for the filing of reports by such handlers at the times, in the manner, and having the content prescribed by the order, to the end that information and data shall be made available to the Cotton Board and to the Secretary which is appropriate or necessary to the effectuation, administration, or enforcement of this chapter or of any order or regulation issued pursuant to this chapter: *Provided, however,* That all information so obtained shall be kept confidential by all officers and employees of the Department of Agriculture and of the Cotton Board, and only such information so furnished or acquired as the Secretary deems relevant shall be disclosed by them, and then only in a suit or administrative hearing brought at the direction, or upon the request, of the Secretary of Agriculture, or to which he or any officer of the United States is a party, and involving the order with reference to which the

information so to be disclosed was furnished or acquired. Nothing in this section shall be deemed to prohibit (1) the issuance of general statements based upon the reports of a number of handlers subject to an order, which statements do not identify the information furnished by any person, or (2) the publication by direction of the Secretary, of the name of any person violating any order, together with a statement of the particular provisions of the order violated by such person. Any such officer or employee violating the provisions of this subsection shall upon conviction be subject to a fine of not more than $1,000 or to imprisonment for not more than one year, or to both, and shall be removed from office.

(d) Terms and conditions incidental to and not inconsistent with the terms and conditions specified in this chapter and necessary to effectuate the other provisions of such order.

(Pub. L. 89-502, § 6, July 13, 1966, 80 Stat. 280.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2106 of this title.

§ 2106. Required terms and conditions in orders

Orders issued pursuant to this chapter shall contain the following terms and conditions:

(a) Providing for the establishment and selection by the Secretary, of a Cotton Board, and defining its powers and duties, which shall include only the powers:

(1) To administer such order in accordance with its terms and provisions;

(2) To make rules and regulations to effectuate the terms and provisions of such order, including the designation of the handler responsible for collecting the producer assessment;

(3) To receive, investigate, and report to the Secretary complaints of violations of such order; and

(4) To recommend to the Secretary amendments to such order.

(b) Providing that the Cotton Board shall be composed of representatives of cotton producers selected by the Secretary, from nominations submitted by eligible producer organizations within a cotton-producing State, as certified pursuant to section 2113 of this title, or, if the Secretary determines that a substantial number of producers are not members of or their interests are not represented by any such eligible producer organizations, from nominations made by producers in the manner authorized by the Secretary, so that the representation of cotton producers on the Board for each cotton-producing State shall reflect, to the extent practicable, the proportion which that State's marketings of cotton bears to the total marketings of cotton in the United States: *Provided, however,* That each cotton-producing State shall be entitled to at least one representative on the Cotton Board. The Secretary may appoint a number of consumer advisors to the Cotton Board not to exceed 15 per centum of the membership of the Cotton Board. The Cotton Board shall reimburse the consumer advisors for expenses incurred in attending meetings of the Board in the same manner as the Cotton Board members.

(c) Providing that the Cotton Board shall, subject to the provisions of subsection (g) of this section, develop and submit to the Secretary for his approval any advertising or sales promotion or research and development plans or projects, and that any such plan or project must be approved by the Secretary before becoming effective.

(d) Providing that the Cotton Board shall, subject to the provisions of subsection (g) of this section, submit to the Secretary for his approval, budgets on a fiscal period basis of its anticipated expenses and disbursements in the administration of the order, including probable costs of advertising and promotion and research and development projects.

(e) Providing that the producer or other person for whom the cotton is being handled shall pay to the handler of cotton designated by the Cotton Board pursuant to regulations issued under the order and that such handler of cotton shall collect from the producer or other person for whom the cotton, including cotton owned by the handler, is being handled, and shall pay to the Cotton Board, an assessment prescribed by the order, on the basis of bales of cotton handled, for such expenses and expenditures, including provision for a reasonable reserve, as the Secretary finds are reasonable and likely to be incurred by the Cotton Board under the order, during any period specified by him, and for reimbursing the Secretary (1) for expenses not to exceed $200,000 incurred by him in connection with any referendum conducted under section 2107 of this title, and (2) for administrative costs incurred by the Secretary for supervisory work up to 5 employee years after an order or amendment to an order has been issued and made effective. To facilitate the collection and payment of such assessments, the Cotton Board may designate different handlers or classes of handlers to recognize differences in marketing practices or procedures utilized in any State or area, except that no more than one such assessment shall be made on any bale of cotton, unless specifically authorized by provisions of this subsection. The rate of assessment prescribed by the order shall be $1 per bale of cotton handled but, subject to approval in a referendum as provided in section 2107 of this title, the Secretary shall issue an amendment to the order which shall provide that, in each marketing year, the rate shall be supplemented by an additional per bale amount to be collected or paid as provided in this subsection, such amount to be at a rate as prescribed in the amendment to the order, but not to exceed 1 per centum of the value of cotton as determined by the Cotton Board and the Secretary. Neither the amendment to the order authorized by the foregoing provisions nor the disapproval of such amendment in a referendum shall operate to decrease or otherwise affect the amount of the assessment of $1 per bale in effect under the order published in the Federal Register on December 31, 1966. No authority under this chapter may be used as a basis to advertise or solicit votes in any referendum relating to the rate of assessment with funds collected under this chapter. The Secre-

tary may maintain a suit against any person subject to the order for the collection of such assessment, and the several district courts of the United States are hereby vested with jurisdiction to entertain such suits regardless of the amount in controversy: *Provided,* That the remedies provided in this section shall be in addition to, and not exclusive of, the remedies provided for elsewhere in this chapter or now or hereafter existing at law or in equity.

(f) Providing that the Cotton Board shall maintain such books and records and prepare and submit such reports from time to time, to the Secretary as he may prescribe, and for appropriate accounting by the Cotton Board with respect to the receipt and disbursement of all funds entrusted to it.

(g) Providing that the Cotton Board, with the approval of the Secretary, shall enter into contracts or agreements for the development and carrying out of the activities authorized under the order pursuant to sections 2105(a) and (b) of this title and for the payment of the costs thereof with funds collected pursuant to the order, with an organization or association whose governing body consists of cotton producers selected by the cotton producer organizations certified by the Secretary under section 2113 of this title, in such manner that the producers of each cotton-producing State will, to the extent practicable, have representation on the governing body of such organization in the proportion that the cotton marketed by the producers of such State bears to the total cotton marketed by the producers of all cotton-producing States, subject to adjustments to reflect lack of participation in the program by reason of refunds under section 2110 of this title. Any such contract or agreement shall provide that such contracting organization or association shall develop and submit annually to the Cotton Board, for the purpose of review and making recommendations to the Secretary, a program of research, advertising, and sales promotion projects, together with a budget, or budgets, which shall show the estimated cost to be incurred for such projects, and that any such projects shall become effective upon approval by the Secretary. Any such contract or agreement shall also provide that the contracting organization shall keep accurate records of all its transactions and make an annual report to the Cotton Board of activities carried out and an accounting for funds received and expended, and such other reports as the Secretary may require.

(h) Providing that no funds collected by the Cotton Board under the order shall in any manner be used for the purpose of influencing governmental policy or action, except as provided by subsection (a)(4) of this section.

(Pub. L. 89-502, § 7, July 13, 1966, 80 Stat. 281; Pub. L. 94-366, §§ 2, 3, July 14, 1976, 90 Stat. 991, 992.)

AMENDMENTS

1976—Subsec. (b). Pub. L. 94-366, § 3, added provisions which authorized the Secretary to appoint consumer advisors up to 15 per centum of the membership of the Cotton Board, and authorized reimbursing such advisors for expenses incurred in attending the Board meetings.

Subsec. (e). Pub. L. 94-366, § 2, added provisions authorizing reimbursement of the Secretary up to $200,000 for expenses incurred in conducting a referendum pursuant to section 2107 of this title and for administrative costs incurred by him for supervisory work up to five employee years after an order or an amendment to an order has been issued and made effective, added provisions authorizing assessment of a bale of cotton more than once if called for by a provision in this subsection, and added provisions authorizing the Secretary to amend the rate order to supplement the rate in each marketing year by an additional per bale amount not to exceed 1 per centum of the value of the cotton as determined by the Cotton Board and the Secretary.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2105, 2113, 2116, 2119 of this title.

§ 2107. Referendum and cotton producer approval of orders

The Secretary shall conduct a referendum among persons who, during a representative period determined by the Secretary, have been engaged in the production of cotton for the purpose of ascertaining whether the issuance of an order is approved or favored by producers. No order issued pursuant to this chapter shall be effective unless the Secretary determines that the issuance of such order is approved or favored by not less than two-thirds of the producers voting in such referendum, or by the producers of not less than two-thirds of the cotton produced during the representative period by producers voting in such referendum and by not less than a majority of the producers voting in such referendum.

(Pub. L. 89-502, § 8, July 13, 1966, 80 Stat. 283.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2106 of this title.

§ 2108. Suspension and termination of orders

(a) The Secretary shall, whenever he finds that any order issued under this chapter, or any provision thereof, obstructs or does not tend to effectuate the declared policy of this chapter, terminate or suspend the operation of such order or such provision thereof.

(b) The Secretary may conduct a referendum at any time, and shall hold a referendum on request of 10 per centum or more of the number of cotton producers voting in the referendum approving the order, to determine whether cotton producers favor the termination or suspension of the order, and he shall suspend or terminate such order at the end of the marketing year, as defined in the order, whenever he determines that suspension or termination of the order is approved or favored by a majority of the producers of cotton voting in such referendum who, during a representative period determined by the Secretary, have been engaged in the production of cotton, and who produced more than 50 per centum of the volume of the cotton produced by the cotton producers voting in the referendum.

(c) The termination or suspension of any order, or any provision thereof, shall not be considered an order within the meaning of this chapter.

(Pub. L. 89-502, § 9, July 13, 1966, 80 Stat. 283.)

§ 2109. Applicability of provisions to amendments

The provisions of this chapter applicable to orders shall be applicable to amendments to orders.

(Pub. L. 89-502, § 10, July 13, 1966, 80 Stat. 283.)

§ 2110. Refund of producer assessments

Notwithstanding any other provision of this chapter, any cotton producer against whose cotton any assessment is made and collected from him under the authority of this chapter and who is not in favor of supporting the research and promotion program as provided for herein shall have the right to demand and receive from the Cotton Board a refund of such assessment: *Provided,* That such demand shall be made personally by such producer in accordance with regulations and on a form and within a time period prescribed by the Board and approved by the Secretary, but in no event less than ninety days, and upon submission of proof satisfactory to the Board that the producer paid the assessment for which refund is sought, and any such refund shall be made within sixty days after demand therefor.

(Pub. L. 89-502, § 11, July 13, 1966, 80 Stat. 283.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2106 of this title.

§ 2111. Administrative review of orders; petition; hearing; judicial review

(a) Any person subject to any order may file a written petition with the Secretary, stating that any such order or any provision of such order or any obligation imposed in connection therewith is not in accordance with law and praying for a modification thereof or to be exempted therefrom. He shall thereupon be given an opportunity for a hearing upon such petition, in accordance with regulations made by the Secretary. After such hearing, the Secretary shall make a ruling upon the prayer of such petition which shall be final, if in accordance with law.

(b) The district courts of the United States in any district in which such person is an inhabitant, or has his principal place of business, are hereby vested with jurisdiction to review such ruling, provided a complaint for that purpose is filed within twenty days from the date of the entry of such ruling. Service of process in such proceedings may be had upon the Secretary by delivering to him a copy of the complaint. If the court determines that such ruling is not in accordance with law, it shall remand such proceedings to the Secretary with directions either (1) to make such ruling as the court shall determine to be in accordance with law, or (2) to take such further proceedings as, in its opinion, the law requires. The pendency of proceedings instituted pursuant to subsection (a) of this section shall not impede, hinder, or delay the United States or the Secretary from obtaining relief pursuant to section 2112(a) of this title.

(Pub. L. 89-502, § 12, July 13, 1966, 80 Stat. 284.)

§ 2112. Enforcement of orders; penalty for willful violation

(a) The several district courts of the United States are vested with jurisdiction specifically to enforce, and to prevent and restrain any person from violating any order or regulation made or issued pursuant to this chapter.

(b) Any handler who willfully violates any provision of any order issued by the Secretary under this chapter, or who willfully fails or refuses to collect or remit any assessment or fee duly required of him thereunder, shall be liable to a penalty of not more than $1,000 for each such offense which shall accrue to the United States and may be recovered in a civil suit brought by the United States.

(Pub. L. 89-502, § 13, July 13, 1966, 80 Stat. 284.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2111 of this title.

§ 2113. Certification of cotton producer organizations

The eligibility of each cotton producer organization to represent cotton producers of a cotton producing State to request the issuance of an order under section 2103 of this title, and to participate in the making of nominations under section 2106(b) of this title shall be certified by the Secretary and shall be based in addition to other available information upon a factual report submitted by the organization which shall contain information deemed relevant and specified by the Secretary for the making of such determination, including the following:

(a) Geographic territory within the State covered by the organization's active membership;

(b) Nature and size of the organization's active membership in the State, proportion of total of such active membership accounted for by farmers, a map showing the cotton-producing counties in such State in which the organization has members, the volume of cotton produced in each such county, the number of cotton producers in each such county, and the size of the organization's active cotton producer membership in each such county;

(c) The extent to which the cotton producer membership of such organization is represented in setting the organization's policies;

(d) Evidence of stability and permanency of the organization;

(e) Sources from which the organization's operating funds are derived;

(f) Functions of the organization; and

(g) The organization's ability and willingness to further the aims and objectives of this chapter:

Provided, however, That the primary consideration in determining the eligibility of an organization shall be whether its cotton farmer membership consists of a sufficiently large number of the cotton producers who produce a relatively significant volume of cotton to reasonably warrant its participation in the nomination of members for the Cotton Board. The Secretary shall certify any cotton producer organization which he finds to be eligible under this section,

and his determination as to eligibility shall be final.

(Pub. L. 89-502, § 14, July 13, 1966, 80 Stat. 284.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2103, 2106 of this title.

§ 2114. Rules and regulations

The Secretary is authorized to make such regulations with the force and effect of law, as may be necessary to carry out the provisions of this chapter and the powers vested in him by this chapter.

(Pub. L. 89-502, § 15, July 13, 1966, 80 Stat. 285.)

§ 2115. Investigations by Secretary; subpenas; oaths and affirmations; judicial aid

The Secretary may make such investigations as he deems necessary for the effective carrying out of his responsibilities under this chapter or to determine whether a handler or any other person has engaged or is about to engage in any acts or practices which constitute or will constitute a violation of any provision of this chapter or of any order, or rule or regulation issued under this chapter. For the purpose of any such investigation, the Secretary is empowered to administer oaths and affirmations, subpena witnesses, compel their attendance, take evidence, and require the production of any books, papers, and documents which are relevant to the inquiry. Such attendance of witnesses and the production of any such records may be required from any place in the United States. In case of contumacy by, or refusal to obey a subpena issued to, any person, including a handler, the Secretary may invoke the aid of any court of the United States within the jurisdiction of which such investigation or proceeding is carried on, or where such person resides or carries on business, in requiring the attendance and testimony of witnesses and the production of books, papers, and documents; and such court may issue an order requiring such person to appear before the Secretary, there to produce records, if so ordered, or to give testimony touching the matter under investigation. Any failure to obey such order of the court may be punished by such court as a contempt thereof. All process in any such case may be served in the judicial district whereof such person is an inhabitant or wherever he may be found.

(Pub. L. 89-502, § 16, July 13, 1966, 80 Stat. 285; Pub. L. 91-452, title II, § 206(a), Oct. 15, 1970, 84 Stat. 929.)

AMENDMENTS

1970—Pub. L. 91-452 struck out letter designation "(a)" preceding first sentence and struck out subsec. (b) which related to the immunity from prosecution of any individual compelled to testify or produce evidence, documentary or otherwise, after claiming his privilege against self-incrimination.

EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by Pub. L. 91-452 effective on the sixtieth day following the date of enactment of Pub. L. 91-452, which was approved Oct. 15, 1970, see section 260 of Pub. L. 91-452, set out as a note under section 6001 of Title 18, Crimes and Criminal Procedure.

SAVINGS PROVISION

Amendment by Pub. L. 91-452 not to affect any immunity to which any individual is entitled under this section by reason of any testimony given before the sixtieth day following Oct. 15, 1970, see section 260 of Pub. L. 91-452, set out as a note under section 6001 of Title 18, Crimes and Criminal Procedure.

CROSS REFERENCES

Immunity of witnesses, see section 6001 et seq. of Title 18, Crimes and Criminal Procedure.

§ 2116. Definitions

As used in this chapter:

(a) The term "Secretary" means the Secretary of Agriculture.

(b) The term "person" means any individual, partnership, corporation, association, or any other entity.

(c) The term "cotton" means all upland cotton harvested in the United States, and, except as used in section 2106(e) of this title, includes cottonseed of such cotton and the products derived from such cotton and its seed.

(d) The term "handler" means any person who handles cotton or cottonseed in the manner specified in the order or in the rules and regulations issued thereunder.

(e) The term "United States" means the 50 States of the United States of America.

(f) The term "cotton-producing State" means any State in which the average annual production of cotton during the five years 1960-1964 was twenty thousand bales or more, except that any State producing cotton whose production during such period was less than such amount shall under regulations prescribed by the Secretary be combined with another State or States producing cotton in such manner that such average annual production of such combination of States totaled twenty thousand bales or more, and the term "cotton-producing State" shall include any such combination of States.

(g) The term "marketing" includes the sale of cotton or the pledging of cotton to the Commodity Credit Corporation as collateral for a price support loan.

(Pub. L. 89-502, § 17, July 13, 1966, 80 Stat. 286.)

§ 2117. Separability of provisions

If any provision of this chapter or the application thereof to any person or circumstances is held invalid, the validity of the remainder of the chapter and of the application of such provision to other persons and circumstances shall not be affected thereby.

(Pub. L. 89-502, § 18, July 13, 1966, 80 Stat. 286.)

§ 2118. Authorization of appropriations

There is hereby authorized to be appropriated out of any money in the Treasury not otherwise appropriated such funds as are necessary to carry out the provisions of this chapter. The funds so appropriated shall not be available for the payment of the expenses or expenditures of the Cotton Board in administering any provisions of any order issued pursuant to the terms of this chapter.

(Pub. L. 89-502, § 19, July 13, 1966, 80 Stat. 287.)

§ 2119. Programs of Commodity Credit Corporation

The Commodity Credit Corporation, in furtherance of its powers and duties under section 714c(e) and (f) of title 15, shall, through the Cotton Board established under this chapter, and upon approval of the Secretary, enter into agreements with the contracting organization specified pursuant to section 2106(g) of this title for the conduct, in domestic and foreign markets, of market development, research or sales promotion programs and programs to aid in the development of new and additional markets, marketing facilities and uses for cotton and cotton products, including programs to facilitate the utilization and commercial application of research findings. Each year the amount available for such agreements shall be 10 million dollars. The Secretary is authorized to deduct from funds available for payments to producers under section 1444 of this title on each of the 1972 through 1977 crops of upland cotton such additional sums for use as specified above (not exceeding $10,000,000 for each such crop) as he determines desirable; and the final rate of payment provided in section 1444 of this title if higher than the rate of the preliminary payment provided in such section shall be reduced to the extent necessary to defray such costs. No funds made available under this section shall be used for the purpose of influencing legislative action or general farm policy with respect to cotton.

(Pub. L. 91-524, title VI, § 610, Nov. 30, 1970, 84 Stat. 1378; Pub. L. 93-86, § 1(23), Aug. 10, 1973, 87 Stat. 235.)

Repeals

Section repealed effective Oct. 1, 1977, by Pub. L. 94-366, § 1, July 14, 1976, 90 Stat. 991.

CODIFICATION

Section was enacted as part of the Agriculture Act of 1970, and not as part of the Cotton Research and Promotion Act which comprises this chapter.

AMENDMENTS

1973—Pub. L. 93-86 substituted provisions authorizing that the amount available each year for agreements be 10 million dollars for provisions authorizing that the amount available each year for agreements be that portion of the funds (not exceeding $10,000,000) authorized to be made available to cooperators under the cotton program for such year but which is not paid to producers because of a statutory limitation on the amounts payable to any producer, and extended the authorization for deductions by the Secretary from 1973 to 1977.

CHAPTER 54—TRANSPORTATION, SALE, AND HANDLING OF CERTAIN ANIMALS

Sec.

2131. Congressional statement of policy.
2132. Definitions.
2133. Licensing of dealers and exhibitors.
2134. Valid license for dealers and exhibitors required.
2135. Time period for disposal of dogs or cats by dealers or exhibitors.
2136. Registration of research facilities, handlers, carriers and unlicensed exhibitors.
2137. Purchase of dogs or cats by research facilities prohibited except from authorized operators of auction sales and licensed dealers or exhibitors.
2138. Purchase of dogs or cats by United States Government facilities prohibited except from authorized operators of auction sales and licensed dealers or exhibitors.
2139. Principal-agent relationship established.
2140. Recordkeeping by dealers, exhibitors, research facilities, intermediate handlers, and carriers.
2141. Marketing and identification of animals.
2142. Humane standards and recordkeeping requirements at auction sales.
2143. Humane standards for animals transported in commerce.
(a) Authority of Secretary to promulgate standards.
(b) Veterinary certificate; contents; exceptions.
(c) Age of animals delivered to registered research facilities; power of Secretary to designate additional classes of animals and age limits.
(d) Prohibition of C.O.D. arrangements for transportation of animals in commerce; exceptions.
2144. Humane standards for animals by United States Government facilities.
2145. Consultation and cooperation with Federal, State, and local governmental bodies by Secretary of Agriculture.
2146. Administration and enforcement by Secretary.
(a) Investigations and inspections.
(b) Penalties for interfering with official duties.
(c) Procedures.
2147. Inspection by legally constituted law enforcement agencies.
2148. Repealed.
2149. Violations by licensees.
(a) Temporary license suspension; notice and hearing; revocation.
(b) Civil penalties for violation of any section, etc.; separate offenses; notice and hearing; appeal; considerations in assessing penalty; compromise of penalty; civil action by Attorney General for failure to pay penalty; district court jurisdiction; failure to obey cease and desist order.
(c) Appeal of final order by aggrieved person; limitations; exclusive jurisdiction of United States Courts of Appeals.
(d) Criminal penalties for violation; initial prosecution brought before United States magistrates; conduct of prosecution by attorneys of United States Department of Agriculture.
2150. Repealed.
2151. Rules and regulations.
2152. Separability of provisions.
2153. Fees and authorization of appropriations.
2154. Effective dates.
2155. Annual report to the President of the Senate and the Speaker of the House of Representatives.

Sec.
2156. Animal fighting venture prohibition.
(a) Sponsoring or exhibiting animal in any fighting venture.
(b) Buying, selling, delivering, or transporting animals for participation in animal fighting venture.
(c) Use of Postal Service or other interstate instrumentality for promoting or furthering animal fighting venture.
(d) Violation of state law.
(e) Penalties.
(f) Investigation of violations by Secretary; assistance by other federal agencies; issuance of search warrant; forfeiture; costs recoverable in forfeiture or civil action.
(g) Definitions.
(h) Conflict with state law.

§ 2131. Congressional statement of policy

The Congress finds that animals and activities which are regulated under this chapter are either in interstate or foreign commerce or substantially affect such commerce or the free flow thereof, and that regulation of animals and activities as provided in this chapter is necessary to prevent and eliminate burdens upon such commerce and to effectively regulate such commerce, in order—

(1) to insure that animals intended for use in research facilities or for exhibition purposes or for use as pets are provided humane care and treatment;

(2) to assure the humane treatment of animals during transportation in commerce; and

(3) to protect the owners of animals from the theft of their animals by preventing the sale or use of animals which have been stolen.

The Congress further finds that it is essential to regulate, as provided in this chapter, the transportation, purchase, sale, housing, care, handling, and treatment of animals by carriers or by persons or organizations engaged in using them for research or experimental purposes or for exhibition purposes or holding them for sale as pets or for any such purpose or use.

(Pub. L. 89-544, § 1(b), formerly § 1, Aug. 24, 1966, 80 Stat. 350; Pub. L. 91-579, § 2, Dec. 24, 1970, 84 Stat. 1560; renumbered and amended Pub. L. 94-279, § 2, Apr. 22, 1976, 90 Stat. 417.)

Amendments

1976—Pub. L. 94-279 restated and expanded the objectives of this chapter to include regulation of animals and activities in, or substantially affecting, interstate or foreign commerce in order to prevent and eliminate burdens on such commerce and to assure the humane treatment of animals during transportation.

1970—Pub. L. 91-579 restated the objectives to include all animals as defined instead of only cats and dogs and expanded the coverage to regulate animals intended for use for exhibition purposes or for use as pets.

Effective Date of 1970 Amendment

Section 23 of Pub. L. 91-579 provided that: "The amendments made by this Act [enacting section 2155 of this title, amending this section and sections 2132, 2133, 2134, 2135, 2136, 2137, 2138, 2139, 2140, 2141, 2142, 2143, 2144, 2145, 2146, 2147, 2149, and 2150 of this title, repealing section 2148 of this title, and enacting provisions set out as notes under this section] shall take effect one year after the date of enactment of this Act [Dec. 24, 1970], except for the amendments to sections 16, 17, 19, and 20 of the Act of August 24, 1966 [sections 2146, 2147, 2149, and 2150 of this title], which shall become effective thirty days after the date of enactment of this Act [Dec. 24, 1970]".

Short Title of 1976 Amendment

Section 1 of Pub. L. 94-279 provided: "That this Act [enacting section 2156 of this title, amending this section and sections 2132, 2134, 2136, 2139 to 2146, 2149, 2153 to 2155 of this title, and section 3001 of Title 39, repealing section 2150 of this title, and enacting provisions set out as notes under this section] may be cited as the 'Animal Welfare Act Amendments of 1976'."

Short Title of 1970 Amendment

Section 1 of Pub. L. 91-579 provided: "That this Act [enacting section 2155 of this title, amending this section and sections 2132, 2133, 2134, 2135, 2136, 2137, 2138, 2139, 2140, 2141, 2142, 2143, 2144, 2145, 2146, 2147, 2149, and 2150 of this title, repealing section 2148 of this title, and enacting provisions set out as notes under this section] may be cited as the 'Animal Welfare Act of 1970'."

Short Title

Section 1(a) of Pub. L. 89-544, as added by section 2 of Pub. L. 94-279, provided: "That this Act [enacting this chapter] may be cited as the 'Animal Welfare Act'."

§ 2132. Definitions

When used in this chapter—

(a) The term "person" includes any individual, partnership, firm, joint stock company, corporation, association, trust, estate, or other legal entity;

(b) The term "Secretary" means the Secretary of Agriculture of the United States or his representative who shall be an employee of the United States Department of Agriculture;

(c) The term "commerce" means trade, traffic, transportation, or other commerce—

(1) between a place in a State and any place outside of such State, or between points within the same State but through any place outside thereof, or within any territory, possession, or the District of Columbia;

(2) which affects trade, traffic, transportation, or other commerce described in paragraph (1).

(d) The term "State" means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, or any other territory or possession of the United States;

(e) The term "research facility" means any school (except an elementary or secondary school), institution, or organization, or person that uses or intends to use live animals in research, tests, or experiments, and that (1) purchases or transports live animals in commerce, or (2) receives funds under a grant, award, loan, or contract from a department, agency, or instrumentality of the United States for the purpose of carrying out research, tests, or experiments: *Provided,* That the Secretary may exempt, by regulation, any such school, institution, organization, or person that does not use or intend to use live dogs or cats, except those schools, institutions, organizations, or persons, which use substantial numbers (as determined by the Secretary) of live animals the principal function of which schools, institutions, organizations, or persons, is biomedical research or testing, when in the judgment of the Secretary,

any such exemption does not vitiate the purpose of this chapter;

(f) The term "dealer" means any person who, in commerce, for compensation or profit, delivers for transportation, or transports, except as a carrier, buys, or sells, or negotiates the purchase or sale of, (1) any dog or other animal whether alive or dead for research, teaching, exhibition, or use as a pet, or (2) any dog for hunting, security, or breeding purposes, except that this term does not include—

(i) a retail pet store except such store which sells any animals to a research facility, an exhibitor, or a dealer; or

(ii) any person who does not sell, or negotiate the purchase or sale of any wild animal, dog, or cat, and who derives no more than $500 gross income from the sale of other animals during any calendar year;

(g) The term "animal" means any live or dead dog, cat, monkey (nonhuman primate mammal), guinea pig, hamster, rabbit, or such other warmblooded animal, as the Secretary may determine is being used, or is intended for use, for research, testing, experimentation, or exhibition purposes, or as a pet; but such term excludes horses not used for research purposes and other farm animals, such as, but not limited to livestock or poultry, used or intended for use as food or fiber, or livestock or poultry used or intended for use for improving animal nutrition, breeding, management, or production efficiency, or for improving the quality of food or fiber. With respect to a dog, the term means all dogs including those used for hunting, security, or breeding purposes;

(h) The term "exhibitor" means any person (public or private) exhibiting any animals, which were purchased in commerce or the intended distribution of which affects commerce, or will affect commerce, to the public for compensation, as determined by the Secretary, and such term includes carnivals, circuses, and zoos exhibiting such animals whether operated for profit or not; but such term excludes retail pet stores, organizations sponsoring and all persons participating in State and country fairs, livestock shows, rodeos, purebred dog and cat shows, and any other fairs or exhibitions intended to advance agricultural arts and sciences, as may be determined by the Secretary;

(i) The term "intermediate handler" means any person including a department, agency, or instrumentality of the United States or of any State or local government (other than a dealer, research facility, exhibitor, any person excluded from the definition of a dealer, research facility, or exhibitor, an operator of an auction sale, or a carrier) who is engaged in any business in which he receives custody of animals in connection with their transportation in commerce; and

(j) The term "carrier" means the operator of any airline, railroad, motor carrier, shipping line, or other enterprise, which is engaged in the business of transporting any animals for hire.

(Pub. L. 89-544, § 2, Aug. 24, 1966, 80 Stat. 350; Pub. L. 91-579, § 3, Dec. 24, 1970, 84 Stat. 1560; Pub. L. 94-279, §§ 3, 4, Apr. 22, 1976, 90 Stat. 417, 418.)

AMENDMENTS

1976—Subsec. (c). Pub. L. 94-279, § 3(1), made changes in phraseology, restructured subsection and expanded the definition of the term "commerce" by making it applicable to any activity affecting interstate commerce.

Subsec. (d). Pub. L. 94-279, § 3(1), substituted definition of "State" for definition of "affecting commerce".

Subsec. (e). Pub. L. 94-279, § 3(2), substituted "in commerce" for "affecting commerce".

Subsec. (f). Pub. L. 94-279, § 3(2), (3), made changes in phraseology, restructured subsection and expanded the definition of the term "dealer" to include persons who negotiate the purchase or sale of protected animals.

Subsec. (g). Pub. L. 94-279, § 3(4), expanded the definition of the term "animal" to include dogs used for hunting, security, or breeding purposes.

Subsecs. (i), (j). Pub. L. 94-279, § 4, added subsecs. (i) and (j).

1970—Subsec. (b). Pub. L. 91-579, § 3(1), inserted "of the United States or his representative who shall be an employee of the United States Department of Agriculture" following "Secretary of Agriculture".

Subsec. (c). Pub. L. 91-579, § 3(2), substituted "trade, traffic, commerce, transportation among the several States, or between any State" for "commerce between any State".

Subsec. (d). Pub. L. 91-579, § 3(3), substituted a definition of the term "affecting commerce" for a definition of the term "dog".

Subsec. (e). Pub. L. 91-579, § 3(3), struck out definition of the term "cat" and substituted for it a definition of the term "research facility" formerly set out in subsec. (f), and, in such definition as transferred from former subsec. (f), extended the term's meaning to include those using "animals" rather than only dogs and cats and allowed exemptions of schools, organizations, institutions, or persons which do not use live dogs or cats, with such exemption to be inapplicable in the case of schools, organizations, institutions, and persons in biomedical research using a substantial number of live animals.

Subsec. (f). Pub. L. 91-579, § 3(3), substituted definition of the term "dealer" formerly contained in subsec. (g) for definition of term "research facility" and in such definition of term "dealer" as thus transferred added provisions extending meaning to include live or dead animals rather than only dogs and cats, adding teaching and exhibition purposes or uses as pets, and exempting retail pet stores unless such stores sell animals to a research facility, an exhibitor, or a dealer. Definition of "research facility" transferred to subsec. (e) and amended.

Subsec. (g). Pub. L. 91-579, § 3(3), substituted definition of the term "animal" formerly contained in subsec. (h) for definition of the term "dealer" and in such definition of the term "animal" as thus transferred added the stipulation "live or dead" to the species already covered, and added provisions to include such warm-blooded animals as may be determined by the Secretary but to exclude specific animals used for research, food and fiber, and the improvement of animal breeding, nutrition, management, or production efficiency. Definition of term "dealer" transferred to subsec. (f) and amended.

Subsec. (h). Pub. L. 91-579, § 3(3), substituted definition of the term "exhibitor" for definition of the term "animal". Definition of term "animal" transferred to subsec. (g) and amended.

EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by Pub. L. 91-579 effective one year after Dec. 24, 1970, see section 23 of Pub. L. 91-579, set out as a note under section 2131 of this title.

§ 2133. Licensing of dealers and exhibitors

The Secretary shall issue licenses to dealers and exhibitors upon application therefor in such form and manner as he may prescribe and

upon payment of such fee established pursuant to 2153 of this title: *Provided,* That no such license shall be issued until the dealer or exhibitor shall have demonstrated that his facilities comply with the standards promulgated by the Secretary pursuant to section 2143 of this title: *Provided, however,* That any retail pet store or other person who derives less than a substantial portion of his income (as determined by the Secretary) from the breeding and raising of dogs or cats on his own premises and sells any such dog or cat to a dealer or research facility shall not be required to obtain a license as a dealer or exhibitor under this chapter. The Secretary is further authorized to license, as dealers or exhibitors, persons who do not qualify as dealers or exhibitors within the meaning of this chapter upon such persons' complying with the requirements specified above and agreeing, in writing, to comply with all the requirements of this chapter and the regulations promulgated by the Secretary hereunder.

(Pub. L. 89-544, § 3, Aug. 24, 1966, 80 Stat. 351; Pub. L. 91-579, § 4, Dec. 24, 1970, 84 Stat. 1561.)

AMENDMENTS

1970—Pub. L. 91-579 inserted references to exhibitors and retail pet stores.

EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by Pub. L. 91-579 effective one year after Dec. 24, 1970, see section 23 of Pub. L. 91-579, set out as a note under section 2131 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2136, 2137, 2138, 2139, 2155 of this title.

§ 2134. Valid license for dealers and exhibitors required

No dealer or exhibitor shall sell or offer to sell or transport or offer for transportation, in commerce, to any research facility or for exhibition or for use as a pet any animal, or buy, sell, offer to buy or sell, transport or offer for transportation, in commerce, to or from another dealer or exhibitor under this chapter any animals, unless and until such dealer or exhibitor shall have obtained a license from the Secretary and such license shall not have been suspended or revoked.

(Pub. L. 89-544, § 4, Aug. 24, 1966, 80 Stat. 351; Pub. L. 91-579, § 5, Dec. 24, 1970, 84 Stat. 1561; Pub. L. 94-279, § 5, Apr. 22, 1976, 90 Stat. 418.)

AMENDMENTS

1976—Pub. L. 94-279 substituted "in commerce" for "affecting commerce", in two instances.

1970—Pub. L. 91-579 inserted references to exhibitors, offers to sell, and offers to transport, and substituted references to animals for references to dogs and cats.

EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by Pub. L. 91-579 effective one year after Dec. 24, 1970, see section 23 of Pub. L. 91-579, set out as a note under section 2131 of this title.

§ 2135. Time period for disposal of dogs or cats by dealers or exhibitors

No dealer or exhibitor shall sell or otherwise dispose of any dog or cat within a period of five business days after the acquisition of such animal or within such other period as may be specified by the Secretary: *Provided,* That operators of auction sales subject to section 2142 of this title shall not be required to comply with the provisions of this section.

(Pub. L. 89-544, § 5, Aug. 24, 1966, 80 Stat. 351; Pub. L. 91-579, § 6, Dec. 24, 1970, 84 Stat. 1561.)

AMENDMENTS

1970—Pub. L. 91-579 inserted references to exhibitors and added proviso that operators of auction sales subject to section 2142 of this title shall not be required to comply with the provisions of this section.

EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by Pub. L. 91-579 effective one year after Dec. 24, 1970, see section 23 of Pub. L. 91-579, set out as a note under section 2131 of this title.

§ 2136. Registration of research facilities, handlers, carriers and unlicensed exhibitors

Every research facility, every intermediate handler, every carrier, and every exhibitor not licensed under section 2133 of this title shall register with the Secretary in accordance with such rules and regulations as he may prescribe.

(Pub. L. 89-544, § 6, Aug. 24, 1966, 80 Stat. 351; Pub. L. 91-579, § 7, Dec. 24, 1970, 84 Stat. 1561; Pub. L. 94-279, § 6, Apr. 22, 1976, 90 Stat. 418.)

AMENDMENTS

1976—Pub. L. 94-279 added ", every intermediate handler, every carrier," following "research facility".

1970—Pub. L. 91-579 inserted reference to exhibitors not licensed under section 2133 of this title.

EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by Pub. L. 91-579 effective one year after Dec. 24, 1970, see section 23 of Pub. L. 91-579, set out as a note under section 2131 of this title.

§ 2137. Purchase of dogs or cats by research facilities prohibited except from authorized operators of auction sales and licensed dealers or exhibitors

It shall be unlawful for any research facility to purchase any dog or cat from any person except an operator of an auction sale subject to section 2142 of this title or a person holding a valid license as a dealer or exhibitor issued by the Secretary pursuant to this chapter unless such person is exempted from obtaining such license under section 2133 of this title.

(Pub. L. 89-544, § 7, Aug. 24, 1966, 80 Stat. 351; Pub. L. 91-579, § 8, Dec. 24, 1970, 84 Stat. 1561.)

AMENDMENTS

1970—Pub. L. 91-579 added licensed exhibitors and operators of auction sales subject to section 2142 of this title to the enumeration of persons from whom research facilities may purchase dogs or cats.

EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by Pub. L. 91-579 effective one year after Dec. 24, 1970, see section 23 of Pub. L. 91-579, set out as a note under section 2131 of this title.

§ 2138. Purchase of dogs or cats by United States Government facilities prohibited except from authorized operators of auction sales and licensed dealers or exhibitors

No department, agency, or instrumentality of the United States which uses animals for research or experimentation or exhibition shall

purchase or otherwise acquire any dog or cat for such purposes from any person except an operator of an auction sale subject to section 2142 of this title or a person holding a valid license as a dealer or exhibitor issued by the Secretary pursuant to this chapter unless such person is exempted from obtaining such license under section 2133 of this title.

(Pub. L. 89-544, § 8, Aug. 24, 1966, 80 Stat. 351; Pub. L. 91-579, § 9, Dec. 24, 1970, 84 Stat. 1562.)

AMENDMENTS

1970—Pub. L. 91-579 inserted reference to instrumentalities of the United States which use animals for exhibition and added operators of auction sales subject to section 2142 of this title and licensed exhibitors to the enumeration of persons from whom United States Government facilities may acquire dogs or cats.

EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by Pub. L. 91-579 effective one year after Dec. 24, 1970, see section 23 of Pub. L. 91-579, set out as a note under section 2131 of this title.

§ 2139. Principal-agent relationship established

When construing or enforcing the provisions of this chapter, the act, omission, or failure of any person acting for or employed by a research facility, a dealer, or an exhibitor or a person licensed as a dealer or an exhibitor pursuant to the second sentence of section 2133 of this title, or an operator of an auction sale subject to section 2142 of this title, or an intermediate handler, or a carrier, within the scope of his employment or office, shall be deemed the act, omission, or failure of such research facility, dealer, exhibitor, licensee, operator of an auction sale, intermediate handler, or carrier, as well as of such person.

(Pub. L. 89-544, § 9, Aug. 24, 1966, 80 Stat. 351; Pub. L. 91-579, § 10, Dec. 24, 1970, 84 Stat. 1562; Pub. L. 94-279, § 7, Apr. 22, 1976, 90 Stat. 418.)

AMENDMENTS

1976—Pub. L. 94-279 inserted "or an intermediate handler, or a carrier," following "section 2142 of this title," and substituted "operator of an auction sale, intermediate handler, or carrier, as well as of such person." for "or an operator of an auction sale as well as of such person." following "research facility, dealer, exhibitor, licensee,".

1970—Pub. L. 91-579 inserted references to persons acting for or employed by exhibitors, persons licensed as exhibitors, and operators of auction sales subject to section 2142 of this title.

EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by Pub. L. 91-579 effective one year after Dec. 24, 1970, see section 23 of Pub. L. 91-579, set out as a note under section 2131 of this title.

§ 2140. Recordkeeping by dealers, exhibitors, research facilities, intermediate handlers, and carriers

Dealers and exhibitors shall make and retain for such reasonable period of time as the Secretary may prescribe, such records with respect to the purchase, sale, transportation, identification, and previous ownership of animals as the Secretary may prescribe. Research facilities shall make and retain such records only with respect to the purchase, sale, transportation, identification, and previous ownership of live dogs and cats. At the request of the Secretary, any regulatory agency of the Federal Government which requires records to be maintained by intermediate handlers and carriers with respect to the transportation, receiving, handling, and delivery of animals on forms prescribed by the agency, shall require there to be included in such forms, and intermediate handlers and carriers shall include in such forms, such information as the Secretary may require for the effective administration of this chapter. Such information shall be retained for such reasonable period of time as the Secretary may prescribe. If regulatory agencies of the Federal Government do not prescribe requirements for any such forms, intermediate handlers and carriers shall make and retain for such reasonable period as the Secretary may prescribe such records with respect to the transportation, receiving, handling, and delivery of animals as the Secretary may prescribe. Such records shall be made available at all reasonable times for inspection and copying by the Secretary.

(Pub. L. 89-544, § 10, Aug. 24, 1966, 80 Stat. 351; Pub. L. 91-579, § 11, Dec. 24, 1970, 84 Stat. 1562; Pub. L. 94-279, § 8, Apr. 22, 1976, 90 Stat. 418.)

AMENDMENTS

1976—Pub. L. 94-279 deleted ", upon forms supplied by the Secretary" following "ownership of animals as the Secretary may prescribe" and added provisions dealing with the records required to be maintained by intermediate handlers and carriers relating to the transportation, receiving, handling and delivery of animals.

1970—Pub. L. 91-579 extended recordkeeping requirements to include exhibitors and to include animals, as defined, rather than only dogs and cats, except that research facilities shall continue to keep required records only for live dogs and cats.

EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by Pub. L. 91-579 effective one year after Dec. 24, 1970, see section 23 of Pub. L. 91-579, set out as a note under section 2131 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2143, 2146, 2154 of this title.

§ 2141. Marking and identification of animals

All animals delivered for transportation, transported, purchased, or sold, in commerce, by a dealer or exhibitor shall be marked or identified at such time and in such humane manner as the Secretary may prescribe: *Provided*, That only live dogs and cats need be so marked or identified by a research facility.

(Pub. L. 89-544, § 11, Aug. 24, 1966, 80 Stat. 351; Pub. L. 91-579, § 12, Dec. 24, 1970, 84 Stat. 1562; Pub. L. 94-279, § 5, Apr. 22, 1976, 90 Stat. 418.)

AMENDMENTS

1976—Pub. L. 94-279 substituted "in commerce" for "affecting commerce".

1970—Pub. L. 91-579 applied marking and identification requirements to dealers and exhibitors for animals, as defined, instead of only to dogs and cats when movements are affecting commerce, but limited such requirements for research facilities to only live dogs and cats.

EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by Pub. L. 91-579 effective one year after Dec. 24, 1970, see section 23 of Pub. L. 91-579, set out as a note under section 2131 of this title.

§ 2142. Humane standards and recordkeeping requirements at auction sales

The Secretary is authorized to promulgate humane standards and recordkeeping requirements governing the purchase, handling, or sale of animals, in commerce, by dealers, research facilities, and exhibitors at auction sales and by the operators of such auction sales. The Secretary is also authorized to require the licensing of operators of auction sales where any dogs or cats are sold, in commerce, under such conditions as he may prescribe, and upon payment of such fee as prescribed by the Secretary under section 2153 of this title.

(Pub. L. 89-544, § 12, Aug. 24, 1966, 80 Stat. 351; Pub. L. 91-579, § 13, Dec. 24, 1970, 84 Stat. 1562; Pub. L. 94-279, § 5, Apr. 22, 1976, 90 Stat. 418.)

AMENDMENTS

1976—Pub. L. 94-279 substituted "in commerce" for "affecting commerce", in two instances.

1970—Pub. L. 91-579 extended requirements for recordkeeping and humane standards to exhibitors and operators of auction sales, with such requirements to apply to animals as defined instead of only to cats and dogs when transactions in auction sales are affecting commerce, and required operators of auction sales to obtain a license when he sells cats or dogs and such transactions are affecting commerce, upon payment of fee prescribed by the Secretary.

EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by Pub. L. 91-579 effective one year after Dec. 24, 1970, see section 23 of Pub. L. 91-579, set out as a note under section 2131 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2135, 2137, 2138, 2139, 2146, 2147, 2149, 2155 of this title.

§ 2143. Humane standards for animals transported in commerce

(a) Authority of Secretary to promulgate standards

The Secretary shall promulgate standards to govern the humane handling, care, treatment, and transportation of animals by dealers, research facilities, and exhibitors. Such standards shall include minimum requirements with respect to handling, housing, feeding, watering, sanitation, ventilation, shelter from extremes of weather and temperatures, adequate veterinary care, including the appropriate use of anesthetic, analgesic or tranquilizing drugs, when such use would be proper in the opinion of the attending veterinarian of such research facilities, and separation by species when the Secretary finds such separation necessary for the humane handling, care, or treatment of animals. The Secretary shall also promulgate standards to govern the transportation in commerce, and the handling, care, and treatment in connection therewith, by intermediate handlers, air carriers, or other carriers, of animals consigned by any dealer, research facility, exhibitor, operator of an auction sale, or other person, or any department, agency, or instrumentality of the United States or of any State or local government, for transportation in commerce. The Secretary shall have authority to promulgate such rules and regulations as he determines necessary to assure humane treatment of animals in the course of their transportation in commerce including requirements such as those with respect to containers, feed, water, rest, ventilation, temperature, and handling. In promulgating and enforcing standards established pursuant to this section, the Secretary is authorized and directed to consult experts, including outside consultants where indicated. Nothing in this chapter shall be construed as authorizing the Secretary to promulgate rules, regulations, or orders with regard to design, outlines, guidelines, or performance of actual research or experimentation by a research facility as determined by such research facility: *Provided,* That the Secretary shall require, at least annually, every research facility to show that professionally acceptable standards governing the care, treatment, and use of animals, including appropriate use of anesthetic, analgesic, and tranquilizing drugs, during experimentation are being followed by the research facility during actual research or experimentation.

(b) Veterinary certificate; contents; exceptions

No dogs or cats, or additional kinds or classes of animals designated by regulation of the Secretary, shall be delivered by any dealer, research facility, exhibitor, operator of an auction sale, or department, agency, or instrumentality of the United States or of any State or local government, to any intermediate handler or carrier for transportation in commerce, or received by any such handler or carrier for such transportation from any such person, department, agency, or instrumentality, unless the animal is accompanied by a certificate issued by a veterinarian licensed to practice veterinary medicine, certifying that he inspected the animal on a specified date, which shall not be more than ten days before such delivery, and, when so inspected, the animal appeared free of any infectious disease or physical abnormality which would endanger the animal or animals or other animals or endanger public health: *Provided, however,* That the Secretary may by regulation provide exceptions to this certification requirement, under such conditions as he may prescribe in the regulations, for animals shipped to research facilities for purposes of research, testing or experimentation requiring animals not eligible for such certification. Such certificates received by the intermediate handlers and the carriers shall be retained by them, as provided by regulations of the Secretary, in accordance with section 2140 of this title.

(c) Age of animals delivered to registered research facilities; power of Secretary to designate additional classes of animals and age limits

No dogs or cats, or additional kinds or classes of animals designated by regulation of the Secretary, shall be delivered by any person to any intermediate handler or carrier for transportation in commerce except to registered research facilities if they are less than such age as the Secretary may by regulation prescribe. The Secretary shall designate additional kinds and classes of animals and may prescribe different ages for particular kinds or classes of dogs, cats,

or designated animals, for the purposes of this section, when he determines that such action is necessary or adequate to assure their humane treatment in connection with their transportation in commerce.

(d) Prohibition of C.O.D. arrangements for transportation of animals in commerce; exceptions

No intermediate handler or carrier involved in the transportation of any animal in commerce shall participate in any arrangement or engage in any practice under which the cost of such animal or the cost of the transportation of such animal is to be paid and collected upon delivery of the animal to the consignee, unless the consignor guarantees in writing the payment of transportation charges for any animal not claimed within a period of 48 hours after notice to the consignee of arrival of the animal, including, where necessary, both the return transportation charges and an amount sufficient to reimburse the carrier for all out-of-pocket expenses incurred for the care, feeding, and storage of such animals.

(Pub. L. 89-544, § 13, Aug. 24, 1966, 80 Stat. 352; Pub. L. 91-579, § 14, Dec. 24, 1970, 84 Stat. 1562; Pub. L. 94-279, §§ 9, 10, Apr. 22, 1976, 90 Stat. 418, 419.)

AMENDMENTS

1976—Subsec. (a). Pub. L. 94-279, § 9, designated existing provisions as subsec.(a) and added provisions authorizing Secretary to promulgate standards, rules and regulations relating to the transportation in commerce, handling, care, and treatment of animals covered under this chapter.

Subsecs. (b) to (d). Pub. L. 94-279, § 10, added subsecs. (b) to (d).

1970—Pub. L. 91-579 added exhibitors to the enumeration of persons to be governed by promulgated standards, added handling to the enumeration of activities covered, expanded existing standard for adequate veterinary care to include the appropriate use of anesthetic, analgesic, or tranquilizing drugs by research facilities when the use of such drugs is considered proper in the opinion of the attending veterinarian at such research facility, directed the Secretary to consult outside consultants and experts in promulgating standards, and added requirement of an annual report.

EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by Pub. L. 91-579 effective one year after Dec. 24, 1970, see section 23 of Pub. L. 91-579, set out as a note under section 2131 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2133, 2144, 2145, 2154, 2155 of this title.

§ 2144. Humane standards for animals by United States Government facilities

Any department, agency, or instrumentality of the United States having laboratory animal facilities shall comply with the standards and other requirements promulgated by the Secretary for a research facility under section 2143 of this title. Any department, agency, or instrumentality of the United States exhibiting animals shall comply with the standards promulgated by the Secretary under section 2143 of this title.

(Pub. L. 89-544, § 14, Aug. 24, 1966, 80 Stat. 352; Pub. L. 91-579, § 15, Dec. 24, 1970, 84 Stat. 1563; Pub. L. 94-279, § 19, Apr. 22, 1976, 90 Stat. 423.)

AMENDMENTS

1976—Pub. L. 94-279 added "and other requirements" after "standards" in first sentence.

1970—Pub. L. 91-579 added provisions requiring the facilities of the United States exhibiting animals to comply with the standards promulgated by the Secretary under section 2143 of this title.

EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by Pub. L. 91-579 effective one year after Dec. 24, 1970, see section 23 of Pub. L. 91-579, set out as a note under section 2131 of this title.

§ 2145. Consultation and cooperation with Federal, State, and local governmental bodies by Secretary of Agriculture

(a) The Secretary shall consult and cooperate with other Federal departments, agencies, or instrumentalities concerned with the welfare of animals used for research, experimentation or exhibition, or administration of statutes regulating the transportation in commerce or handling in connection therewith of any animals when establishing standards pursuant to section 2143 of this title and in carrying out the purposes of this chapter. Before promulgating any standard governing the air transportation and handling in connection therewith, of animals, the Secretary shall consult with the Secretary of Transportation who shall have the authority to disapprove any such standard if he notifies the Secretary, within 30 days after such consultation, that changes in its provisions are necessary in the interest of flight safety. The Interstate Commerce Commission, the Civil Aeronautics Board, and the Federal Maritime Commission, to the extent of their respective lawful authorities, shall take such action as is appropriate to implement any standard established by the Secretary with respect to a person subject to regulation by it.

(b) The Secretary is authorized to cooperate with the officials of the various States or political subdivisions thereof in carrying out the purposes of this chapter and of any State, local, or municipal legislation or ordinance on the same subject.

(Pub. L. 89-544, § 15, Aug. 24, 1966, 80 Stat. 352; Pub. L. 91-579, § 16, Dec. 24, 1970, 84 Stat. 1563; Pub. L. 94-279, § 11, Apr. 22, 1976, 90 Stat. 419.)

AMENDMENTS

1976—Subsec. (a). Pub. L. 94-279 added ", or administration of statutes regulating the transportation in commerce or handling in connection therewith of any animals" following "exhibition", and added provisions requiring the Secretary, prior to promulgating standards governing air transportation of animals in commerce, to consult with the specified federal agencies concerned.

1970—Subsec. (a). Pub. L. 91-579, § 16(1), inserted reference to exhibition of animals.

Subsec. (b). Pub. L. 91-579, § 16(2), substituted "carrying out" for "effectuating".

EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by Pub. L. 91-579 effective one year after Dec. 24, 1970, see section 23 of Pub. L. 91-579, set out as a note under section 2131 of this title.

§ 2146. Administration and enforcement by Secretary

(a) Investigations and inspections

The Secretary shall make such investigations or inspections as he deems necessary to deter-

mine whether any dealer, exhibitor, intermediate handler, carrier, research facility, or operator of an auction sale subject to section 2142 of this title, has violated or is violating any provision of this chapter or any regulation or standard issued thereunder, and for such purposes, the Secretary shall, at all reasonable times, have access to the places of business and the facilities, animals, and those records required to be kept pursuant to section 2140 of this title of any such dealer, exhibitor, intermediate handler, carrier, research facility, or operator of an auction sale. The Secretary shall promulgate such rules and regulations as he deems necessary to permit inspectors to confiscate or destroy in a humane manner any animal found to be suffering as a result of a failure to comply with any provision of this chapter or any regulation or standard issued thereunder if (1) such animal is held by a dealer, (2) such animal is held by an exhibitor, (3) such animal is held by a research facility and is no longer required by such research facility to carry out the research, test, or experiment for which such animal has been utilized, (4) such animal is held by an operator of an auction sale, or (5) such animal is held by an intermediate handler or a carrier.

(b) Penalties for interfering with official duties

Any person who forcibly assaults, resists, opposes, impedes, intimidates, or interferes with any person while engaged in or on account of the performance of his official duties under this chapter shall be fined not more than $5,000, or imprisoned not more than three years, or both. Whoever, in the commission of such acts, uses a deadly or dangerous weapon shall be fined not more than $10,000, or imprisoned not more than ten years, or both. Whoever kills any person while engaged in or on account of the performance of his official duties under this chapter shall be punished as provided under sections 1111 and 1114 of title 18.

(c) Procedures

For the efficient administration and enforcement of this chapter, the provisions (including penalties) of sections 46, 48, 49 and 50 of title 15 (except paragraph (c) through (h) of section 46 of title 15 and the last paragraph of section 49 of title 15), and the provisions of Title II of the Organized Crime Control Act of 1970, are made applicable to the jurisdiction, powers, and duties of the Secretary in administering and enforcing the provisions of this chapter and to any person, firm, or corporation with respect to whom such authority is exercised. The Secretary may prosecute any inquiry necessary to his duties under this chapter in any part of the United States, including any territory, or possession thereof, the District of Columbia, or the Commonwealth of Puerto Rico. The powers conferred by said sections 49 and 50 of title 15 on the district courts of the United States may be exercised for the purposes of this chapter by any district court of the United States. The United States district courts, the District Court of Guam, the District Court of the Virgin Islands, the highest court of American Samoa, and the United States courts of the other territories, are vested with jurisdiction specifically to enforce, and to prevent and restrain violations of this chapter, and shall have jurisdiction in all other kinds of cases arising under this chapter, except as provided in section 2149(c) of this title.

(Pub. L. 89-544, § 16, Aug. 24, 1966, 80 Stat. 352; Pub. L. 91-579, § 17, Dec. 24, 1970, 84 Stat. 1563; Pub. L. 94-279, § 12, Apr. 22, 1976, 90 Stat. 420.)

REFERENCES IN TEXT

Title II of the Organized Crime Control Act of 1970, referred to in subsec. (c), is title II of Pub. L. 91-452, Oct. 15, 1970, 84 Stat. 926, which created a general federal immunity statute set out in section 6001 et seq. of Title 18, Crimes and Criminal Procedure, and repealed the individual immunity provisions formerly contained in various federal regulatory schemes.

AMENDMENTS

1976—Subsec. (a). Pub. L. 94-279, § 12(a), inserted "intermediate handler, carrier," following "dealer, exhibitor," and added "or (5) such animal is held by an intermediate handler or a carrier" following "an auction sale".

Subsec. (c). Pub. L. 94-279, § 12(b), substituted "section 2149(c)" for "sections 2149(b) and 2150(b)" following "except as provided in".

1970—Subsec. (a). Pub. L. 91-579 designated existing provisions as subsec. (a) and, in subsec. (a) as so designated, expanded coverage to include exhibitors and operators of auction sales for purposes of investigation and added provisions requiring that records, facilities, and animals be accessible to inspectors at all reasonable times at premises of dealers, research facilities, exhibitors, and operators of auction sales.

Subsecs. (b), (c). Pub. L. 91-579 added subsecs. (b) and (c).

EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by Pub. L. 91-579 effective 30 days after Dec. 24, 1970, see section 23 of Pub. L. 91-579, set out as a note under section 2131 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2155 of this title.

§ 2147. Inspection by legally constituted law enforcement agencies

The Secretary shall promulgate rules and regulations requiring dealers, exhibitors, research facilities, and operators of auction sales subject to section 2142 of this title to permit inspection of their animals and records at reasonable hours upon request by legally constituted law enforcement agencies in search of lost animals.

(Pub. L. 89-544, § 17, Aug. 24, 1966, 80 Stat. 352; Pub. L. 91-579, § 18, Dec. 24, 1970, 84 Stat. 1564.)

AMENDMENTS

1970—Pub. L. 91-579 substituted "promulgate rules and regulations requiring dealers, exhibitors, research facilities, and operators of auction sales subject to section 2142 of this title" for "issue rules and regulations requiring licensed dealers and research facilities".

EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by Pub. L. 91-579 effective 30 days after Dec. 24, 1970, see section 23 of Pub. L. 91-579, set out as a note under section 2131 of this title.

§ 2148. Repealed. Pub. L. 91-579, § 19, Dec. 24, 1970, 84 Stat. 1564

Section, Pub. L. 89-544, § 18, Aug. 24, 1966, 80 Stat. 352, prohibited any construction of the chapter which would authorize the Secretary to promulgate rules,

regulations, or orders for the handling, care, treatment, or inspection of animals during actual research or experimentation. See, now, section 2143 of this title.

EFFECTIVE DATE OF REPEAL

Repeal of section effective one year after Dec. 24, 1970, see section 23 of Pub. L. 91-579, set out as a note under section 2131 of this title.

§ 2149. Violations by licensees

(a) Temporary license suspension; notice and hearing; revocation

If the Secretary has reason to believe that any person licensed as a dealer, exhibitor, or operator of an auction sale subject to section 2142 of this title, has violated or is violating any provision of this chapter, or any of the rules or regulations or standards promulgated by the Secretary hereunder, he may suspend such person's license temporarily, but not to exceed 21 days, and after notice and opportunity for hearing, may suspend for such additional period as he may specify, or revoke such license, if such violation is determined to have occurred.

(b) Civil penalties for violation of any section, etc.; separate offenses; notice and hearing; appeal; considerations in assessing penalty; compromise of penalty; civil action by Attorney General for failure to pay penalty; district court jurisdiction; failure to obey cease and desist order

Any dealer, exhibitor, research facility, intermediate handler, carrier, or operator of an auction sale subject to section 2142 of this title, that violates any provision of this chapter, or any rule, regulation, or standard promulgated by the Secretary thereunder, may be assessed a civil penalty by the Secretary of not more than $1,000 for each such violation, and the Secretary may also make an order that such person shall cease and desist from continuing such violation. Each violation and each day during which a violation continues shall be a separate offense. No penalty shall be assessed or cease and desist order issued unless such person is given notice and opportunity for a hearing with respect to the alleged violation, and the order of the Secretary assessing a penalty and making a cease and desist order shall be final and conclusive unless the affected person files an appeal from the Secretary's order with the appropriate United States Court of Appeals. The Secretary shall give due consideration to the appropriateness of the penalty with respect to the size of the business of the person involved, the gravity of the violation, the person's good faith, and the history of previous violations. Any such civil penalty may be compromised by the Secretary. Upon any failure to pay the penalty assessed by a final order under this section, the Secretary shall request the Attorney General to institute a civil action in a district court of the United States or other United States court for any district in which such person is found or resides or transacts business, to collect the penalty, and such court shall have jurisdiction to hear and decide any such action. Any person who knowingly fails to obey a cease and desist order made by the Secretary under this section shall be subject to a civil penalty of $500 for each offense, and each day during which such failure continues shall be deemed a separate offense.

(c) Appeal of final order by aggrieved person; limitations; exclusive jurisdiction of United States Courts of Appeals

Any dealer, exhibitor, research facility, intermediate handler, carrier, or operator of an auction sale subject to section 2142 of this title, aggrieved by a final order of the Secretary issued pursuant to this section may, within 60 days after entry of such an order, seek review of such order in the appropriate United States Court of Appeals in accordance with the provisions of sections 2341, 2343 through 2350 of title 28, and such court shall have exclusive jurisdiction to enjoin, set aside, suspend (in whole or in part), or to determine the validity of the Secretary's order.

(d) Criminal penalties for violation; initial prosecution brought before United States magistrates; conduct of prosecution by attorneys of United States Department of Agriculture

Any dealer, exhibitor, or operator of an auction sale subject to section 2142 of this title, who knowingly violates any provision of this chapter shall, on conviction thereof, be subject to imprisonment for not more than 1 year, or a fine of not more than $1,000, or both. Prosecution of such violations shall, to the maximum extent practicable, be brought initially before United States magistrates as provided in section 636 of title 28, and sections 3401 and 3402 of title 18, and, with the consent of the Attorney General, may be conducted, at both trial and upon appeal to district court, by attorneys of the United States Department of Agriculture.

(Pub. L. 89-544, § 19, Aug. 24, 1966, 80 Stat. 352; Pub. L. 91-579, § 20, Dec. 24, 1970, 84 Stat. 1564; Pub. L. 94-279, § 13, Apr. 22, 1976, 90 Stat. 420.)

AMENDMENTS

1976—Subsec. (a). Pub. L. 94-279 substituted provisions covering violations by licensees, temporary license suspension, notice and hearing, and license revocation for provisions relating to violations by dealers, exhibitors, operators of auction sales, cease and desist orders, license suspension, and civil penalties.

Subsec. (b). Pub. L. 94-279 substituted provisions covering civil penalties, notice and hearing, appeal, considerations in assessing penalties, compromising penalties, civil action by Attorney General for failure to pay penalty, district court jurisdiction, and failure to obey cease and desist orders for provisions relating to judicial review of final orders by the Secretary.

Subsec. (c). Pub. L. 94-279 substituted provisions covering appeal of final orders by aggrieved persons, limitations, and exclusive jurisdiction of the United States Courts of Appeals for provisions relating to criminal penalties.

Subsec. (d). Pub. L. 94-279 added subsec. (d).

1970—Pub. L. 91-579 added exhibitors and operators of auction sales to the enumeration of covered persons, added civil penalties for failure to obey a cease and desist order of the Secretary, and changed the procedure for judicial review.

EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by Pub. L. 91-579 effective 30 days after Dec. 24, 1970, see section 23 of Pub. L. 91-579, set out as a note under section 2131 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2146 of this title.

§ 2150. Repealed. Pub. L. 94-279, § 14, Apr. 22, 1976, 90 Stat. 421

Section, Pub. L. 89-544, § 20, Aug. 24, 1966, 80 Stat. 353; Pub. L. 91-579, § 21, Dec. 24, 1970, 84 Stat. 1565, provided for issuance of cease and desist orders if Secretary had reason to believe that any research facility had violated any provision of this chapter, provided for a civil penalty, and provided appeal mechanism by which aggrieved person may have judicial review of such final order by Secretary. See section 2149 of this title.

§ 2151. Rules and regulations

The Secretary is authorized to promulgate such rules, regulations, and orders as he may deem necessary in order to effectuate the purposes of this chapter.

(Pub. L. 89-544, § 21, Aug. 24, 1966, 80 Stat. 353.)

§ 2152. Separability of provisions

If any provision of this chapter or the application of any such provision to any person or circumstances shall be held invalid, the remainder of this chapter and the application of any such provision to persons or circumstances other than those as to which it is held invalid shall not be affected thereby.

(Pub. L. 89-544, § 22, Aug. 24, 1966, 80 Stat. 353.)

§ 2153. Fees and authorization of appropriations

The Secretary shall charge, assess, and cause to be collected reasonable fees for licenses issued. Such fees shall be adjusted on an equitable basis taking into consideration the type and nature of the operations to be licensed and shall be deposited and covered into the Treasury as miscellaneous receipts. There are hereby authorized to be appropriated such funds as Congress may from time to time provide: *Provided,* That there is authorized to be appropriated to the Secretary of Agriculture for enforcement by the Department of Agriculture of the provisions of section 2156 of this title an amount not to exceed $100,000 for the transition quarter ending September 30, 1976, and not to exceed $400,000 for each fiscal year thereafter.

(Pub. L. 89-544, § 23, Aug. 24, 1966, 80 Stat. 353; Pub. L. 94-279, § 18, Apr. 22, 1976, 90 Stat. 423.)

AMENDMENTS

1976—Pub. L. 94-279 authorized appropriations for the enforcement of section 2156 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2133, 2142 of this title.

§ 2154. Effective dates

The regulations referred to in sections 2140 and 2143 of this title shall be prescribed by the Secretary as soon as reasonable but not later than six months from August 24, 1966. Additions and amendments thereto may be prescribed from time to time as may be necessary or advisable. Compliance by dealers with the provisions of this chapter and such regulations shall commence ninety days after the promulgation of such regulations. Compliance by research facilities with the provisions of this chapter and such regulations shall commence six months after the promulgation of such regulations, except that the Secretary may grant extensions of time to research facilities which do not comply with the standards prescribed by the Secretary pursuant to section 2143 of this title provided that the Secretary determines that there is evidence that the research facilities will meet such standards within a reasonable time. Notwithstanding the other provisions of this section, compliance by intermediate handlers, and carriers, and other persons with those provisions of this chapter, as amended by the Animal Welfare Act Amendments of 1976, and those regulations promulgated thereunder, which relate to actions of intermediate handlers and carriers, shall commence 90 days after promulgation of regulations under section 2143 of this title, as amended, with respect to intermediate handlers and carriers, and such regulations shall be promulgated no later than 9 months after April 22, 1976; and compliance by dealers, exhibitors, operators of auction sales, and research facilities with other provisions of this chapter, as so amended, and the regulations thereunder, shall commence upon the expiration of 90 days after April 22, 1976: *Provided, however,* That compliance by all persons with subsections (b), (c), and (d) of section 2143 and with section 2156 of this title, as so amended, shall commence upon the expiration of said ninety-day period. In all other respects, said amendments shall become effective on April 22, 1976.

(Pub. L. 89-544, § 24, Aug. 24, 1966, 80 Stat. 353; Pub. L. 94-279, § 15, Apr. 22, 1976, 90 Stat. 421.)

REFERENCES IN TEXT

The Animal Welfare Act Amendments of 1976, referred to in text, is Pub. L. 94-279. For classification of this Act in the Code, see section 1 of Pub. L. 94-279, set out as a note under section 2131 of this title.

AMENDMENTS

1976—Pub. L. 94-279 added provisions setting particular effective dates of compliance for intermediate handlers and carriers and for dealers, exhibitors, operators of auction sales, and research facilities with respect to the amendments made by the Animal Welfare Act Amendments of 1976.

§ 2155. Annual report to the President of the Senate and the Speaker of the House of Representatives

Not later than March of each year, the Secretary shall submit to the President of the Senate and the Speaker of the House of Representatives a comprehensive and detailed written report with respect to—

(1) the identification of all research facilities, exhibitors, and other persons and establishments licensed by the Secretary under section 2133 and section 2142 of this title;

(2) the nature and place of all investigations and inspections conducted by the Secretary under section 2146 of this title, and all reports received by the Secretary under section 2143 of this title;

(3) recommendations for legislation to improve the administration of this chapter or any provisions thereof; and

(4) recommendations and conclusions concerning the aircraft environment as it relates

to the carriage of live animals in air transportation.

This report as well as any supporting documents, data, or findings shall not be released to any other persons, non-Federal agencies, or organizations unless and until it has been made public by an appropriate committee of the Senate or the House of Representatives.

(Pub. L. 89-544, § 25, as added Pub. L. 91-579, § 22, Dec. 24, 1970, 84 Stat. 1565, and amended Pub. L. 94-279, § 16, Apr. 22, 1976, 90 Stat. 421.)

AMENDMENTS

1976—Pub. L. 94-279 added par. (4).

EFFECTIVE DATE

Section effective one year after Dec. 24, 1970, see section 23 of Pub. L. 91-579, set out as a note under section 2131 of this title.

§ 2156. Animal fighting venture prohibition

(a) Sponsoring or exhibiting animal in any fighting venture

It shall be unlawful for any person to knowingly sponsor or exhibit an animal in any animal fighting venture to which any animal was moved in interstate or foreign commerce.

(b) Buying, selling, delivering, or transporting animals for participation in animal fighting venture

It shall be unlawful for any person to knowingly sell, buy, transport, or deliver to another person or receive from another person for purposes of transportation, in interstate or foreign commerce, any dog or other animal for purposes of having the dog or other animal participate in an animal fighting venture.

(c) Use of Postal Service or other interstate instrumentality for promoting or furthering animal fighting venture

It shall be unlawful for any person to knowingly use the mail service of the United States Postal Service or any interstate instrumentality for purposes of promoting or in any other manner furthering an animal fighting venture except as performed outside the limits of the States of the United States.

(d) Violation of state law

Notwithstanding the provisions of subsections (a), (b), or (c) of this section, the activities prohibited by such subsections shall be unlawful with respect to fighting ventures involving live birds only if the fight is to take place in a State where it would be in violation of the laws thereof.

(e) Penalties

Any person who violates subsection (a), (b), or (c) of this section shall be fined not more than $5,000 or imprisoned for not more than 1 year, or both, for each such violation.

(f) Investigation of violations by Secretary; assistance by other federal agencies; issuance of search warrant; forfeiture; costs recoverable in forfeiture or civil action

The Secretary or any other person authorized by him shall make such investigations as the Secretary deems necessary to determine whether any person has violated or is violating any provision of this section, and the Secretary may obtain the assistance of the Federal Bureau of Investigation, the Department of the Treasury, or other law enforcement agencies of the United States, and State and local governmental agencies, in the conduct of such investigations, under cooperative agreements with such agencies. A warrant to search for and seize any animal which there is probable cause to believe was involved in any violation of this section may be issued by any judge of the United States or of a State court of record or by a United States magistrate within the district wherein the animal sought is located. Any United States marshal or any person authorized under this section to conduct investigations may apply for and execute any such warrant, and any animal seized under such a warrant shall be held by the United States marshal or other authorized person pending disposition thereof by the court in accordance with this subsection. Necessary care including veterinary treatment shall be provided while the animals are so held in custody. Any animal involved in any violation of this section shall be liable to be proceeded against and forfeited to the United States at any time on complaint filed in any United States district court or other court of the United States for any jurisdiction in which the animal is found and upon a judgment of forfeiture shall be disposed of by sale for lawful purposes or by other humane means, as the court may direct. Costs incurred by the United States for care of animals seized and forfeited under this section shall be recoverable from the owner of the animals if he appears in such forfeiture proceeding or in a separate civil action brought in the jurisdiction in which the owner is found, resides, or transacts business.

(g) Definitions

For purposes of this section—

(1) the term "animal fighting venture" means any event which involves a fight between at least two animals and is conducted for purposes of sport, wagering, or entertainment except that the term "animal fighting venture" shall not be deemed to include any activity the primary purpose of which involves the use of one or more animals in hunting another animal or animals, such as waterfowl, bird, raccoon, or fox hunting;

(2) the term "interstate or foreign commerce" means—

(A) any movement between any place in a State to any place in another State or between places in the same State through another State; or

(B) any movement from a foreign country into any State;

(3) the term "interstate instrumentality" means telegraph, telephone, radio, or television operating in interstate or foreign commerce;

(4) the term "State" means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and any territory or possession of the United States;

(5) the term "animal" means any live bird, or any live dog or other mammal, except man; and

(6) the conduct by any person of any activity prohibited by this section shall not render such person subject to the other sections of

this chapter as a dealer, exhibitor, or otherwise.

(h) Conflict with state law

The provisions of this chapter shall not supersede or otherwise invalidate any such State, local, or municipal legislation or ordinance relating to animal fighting ventures except in case of a direct and irreconcilable conflict between any requirements thereunder and this chapter or any rule, regulation, or standard hereunder.

(Pub. L. 89-544, § 26(a)-(h)(1), as added Pub. L. 94-279, § 17, Apr. 22, 1976, 90 Stat. 421.)

CODIFICATION

Section consists of subsecs. (a) to (h)(1) of section 26 of Pub. L. 89-544, as added by Pub. L. 94-279. Subsec. (h)(2) of section 26 of Pub. L. 89-544, as added by Pub. L. 94-279, amended section 3001(a) of Title 39, Postal Service.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2153, 2154 of this title.

CHAPTER 55—DEPARTMENT OF AGRICULTURE

Sec.
2201. Establishment of Department.
2202. Executive Department; Secretary.
2203. Seal.
2204. General duties of Secretary; advisory functions; National rural development program, report to Congress
2204a. Rural development; utilization of non-Federal offices; location of field units; interchange of personnel and facilities; contents of reports.
2205. Duties of former Commissioner of Agriculture transferred to Secretary.
2206. Custody of property and records.
2207. Reports.
2208. Expenditure of appropriations; accounting.
2209. Additional statement of expenditures.
2210. Deputy Secretary of Agriculture; appointment.
2211. Powers and duties of Deputy Secretary of Agriculture.
2212. Assistant Secretary.
2212a. Additional Assistant Secretary of Agriculture; appointment.
2212b. Additional Assistant Secretary of Agriculture; appointment, duties and compensation.
2213. Assistant Secretary for Administration.
2214. General Counsel; appointment.
2215. Chief clerk.
2216. Repealed.
2217. Oaths, affirmations, and affidavits taken by officers, agents, or employees of Department; use and effect.
2218. Fee for administering or taking oaths, affirmations, and affidavits.
2219. Salaries; how paid.
2220. Certain officials and employees of Department and others not subject to restriction on payment of compensation to Government officials and employees.
2221. Details of persons from or to office of Secretary.
2222. Details of law clerks.
2223. Details of employees from and to library and bureaus and offices.
2224. Details of employees from and to Division of Accounts and Disbursements and bureaus and offices; traveling expenses.
2225. Employment of temporary personnel.
2226. Employment of persons for forest fire fighting, pest control, and handling of animals.
Sec.
2227. Traveling expenses.
2228. Emergency subsistence for employees.
2229. Travel and per diem expenses of temporary or seasonal employees.
2230. Employees in Alaska; subsistence, equipment, and supplies.
2231. Official expenses of employees stationed abroad.
2232. Stenographic reporting service.
2233. Funds available for expenses of advisory committees.
2234. Purchases for bureaus from appropriations for contingent expenses.
2235. Working capital fund established; use of central services by bureaus, etc., of the Department.
2236. Working capital fund for Agricultural Research Center; establishment.
2237. Use of field work funds for employment of men with equipment, etc.
2238. Use of field work funds for purchase of arms and ammunition.
2239. Use of funds for purchase of scientific and technical articles.
2240. Reimbursement of appropriation for salaries and compensation of employees in mechanical shops.
2241. Sale or exchange of animals or animal products.
2242. Sale of copies of card index of publications.
2243. Sale of photographic prints and maps.
2244. Manufacture and sale of copies of bibliographies, photographic reproduction of books, and library supplies.
2245. Sale of prints and lantern slides.
2246. Loan, rental, or sale of films.
2247. Sale of samples of pure sugars.
2248. Statistics relating to turpentine and rosin.
2249. Amount and character of cooperation.
2250. Construction and repair of buildings and public improvements.
2250a. Erection of buildings and other structures on non-Federal lands; duration of use of such lands; removal of structures after termination of use; availability of funds for expenses of acquiring long-term leases or other agreements.
2251. Reimbursement of Production and Marketing Administration appropriations for expenses of maintaining registers of indebtedness and making set-offs.
2252. Reimbursement of Production and Marketing Administration appropriations for costs of procuring agricultural commodities for nongovernmental agencies or foreign governments.
2253. Adjustment by Secretary of titles to lands acquired by Government and subject to his control.
2254. Operation, maintenance and purchase of aircraft by Agricultural Research Service; construction and repair of buildings.
2255. Membership in International Wheat Advisory Committee, International Sugar Council, etc.
2256. Inspections, analyses, and tests for other Government departments and agencies; reimbursement.
2257. Interchangeability of funds for miscellaneous expenses and general expenses.
2258. Purchase of newspapers.
2259. Market-inspection certificates as prima facie evidence.
2260. Inspection or quarantine services involving overtime furnished upon a reimbursable basis.
2261. Credit of donations and proceeds from exhibitions to appropriations concerned with foreign market development programs.

Sec.
2262. Employee liability insurance on motor vehicles in foreign countries.
2263. Transfer of funds.
2264. National Agricultural Library; acceptance of gifts, bequests, or devises; conditional gifts.
2265. Deposit of money accepted for benefit of National Agricultural Library; disbursement.

§ 2201. Establishment of Department

There shall be at the seat of government a Department of Agriculture, the general design and duties of which shall be to acquire and to diffuse among the people of the United States useful information on subjects connected with agriculture and rural development, in the most general and comprehensive sense of those terms, and to procure, propagate, and distribute among the people new and valuable seeds and plants.

(R.S. § 520; Pub. L. 92-419, title VI, § 603(a), Aug. 30, 1972, 86 Stat. 675.)

CODIFICATION

Section was formerly classified to section 511 of Title 5 prior to the general revision and enactment of Title 5, Government Organization and Employees, by Pub. L. 89-554, § 1, Sept. 6, 1966, 80 Stat. 378.

AMENDMENTS

1972—Pub. L. 92-419 substituted "agriculture and rural development" and "those terms" for "agriculture" and "that word", respectively.

SHORT TITLE

Act Aug. 3, 1956, § 1, provided that "This Act [which enacted sections 428a, 1040, 2228, 2229 and 2333 of this title, and sections 579b and 590h-4 of Title 16, Conservation, and amended sections 1004, 1392(b), 1516(a) and 1766 of this title, sections 590k and 590n of Title 16, and sections 114a and 114c of Title 21, Food and Drugs] may be cited as the 'Department of Agriculture Organic Act of 1956'."

TRANSFER OF FUNCTIONS FROM SECRETARY OF INTERIOR TO SECRETARY OF AGRICULTURE

Pub. L. 86-509, June 11, 1960, 74 Stat. 205, which enacted provisions of Reorganization Plan Numbered 1 of 1959, provided:

"That, except as otherwise provided in section 2 hereof, the following functions are hereby transferred to the Secretary of Agriculture:

"(a) The functions of the Secretary of the Interior under the Act of March 20, 1922, 42 Stat. 465, as amended (16 U.S.C. 485, 486), with respect to exchanges of non-Federal lands for national forest lands or timber.

"(b) The functions of the Secretary of the Interior under the Act of February 2, 1922 (42 Stat. 362), with respect to exchanges of lands in private ownership within or within six miles of the Deschutes National Forest for national forest lands, or for timber from any national forest, in the State of Oregon.

"(c) The functions of the Secretary of the Interior under the Act of June 7, 1924 (43 Stat. 643), except section 2 thereof, with respect to exchanges of privately owned lands for national forest timber in New Mexico.

"(d) The functions of the Secretary of the Interior under the Act of January 12, 1925 (43 Stat. 739), except section 2 thereof, with respect to exchanges of privately owned lands for national forest timber in New Mexico.

"(e) The functions of the Secretary of the Interior under the Act of April 21, 1926 (44 Stat. 303), except section 2 thereof, with respect to exchanges of privately owned lands for national forest lands or timber in New Mexico and Arizona.

"(f) The functions of the Secretary of the Interior under section 2 of the Act of May 26, 1926 (44 Stat. 655; 16 U.S.C. 38), with respect to exchanges of lands held in private or State ownership for national forest lands or timber in Montana.

"(g) The functions of the Secretary of the Interior under the Act of June 15, 1926 (44 Stat. 746), with respect to exchanges of State lands for national forest lands in New Mexico.

"(h) The functions of the Secretary of the Interior under the Act of December 7, 1942 (56 Stat. 1042), with respect to exchange transactions in which lands under the jurisdiction of the Secretary of Agriculture are exchanged for State lands in Minnesota which are to be under the jurisdiction of the Secretary of Agriculture after their acquisition by the United States.

"(i) The function of the Secretary of the Interior (originally vested in the Commissioner of the General Land Office) under section 6 of the Act of April 28, 1930 (46 Stat. 257; 43 U.S.C. 872), with respect to execution of quitclaim deeds for lands conveyed to the United States in connection with exchange transactions involving lands under the jurisdiction of the Secretary of Agriculture.

"(j) The functions of the Secretary of the Interior under section 2(b) of the Joint Resolution of August 8, 1947 (61 Stat. 921), with respect to appraisals and sales of certain lands within the Tongass National Forest.

"(k) The functions of the Secretary of the Interior under section 10 of the Act of March 1, 1911 (36 Stat. 962; 16 U.S.C. 519), with respect to sales of small tracts of acquired national forest lands found chiefly valuable for agriculture.

"(l) The functions of the Secretary of the Interior under section 402 of Reorganization Plan Numbered 3 of 1946 (60 Stat. 1099), section 3 of the Act of September 1, 1949 (63 Stat. 683; 30 U.S.C. 192c), the Act of June 30, 1950 (64 Stat. 311; 16 U.S.C. 508b), section 3 of the Act of June 28, 1952 (66 Stat. 285), or otherwise, with respect to the use and disposal from lands under the jurisdiction of the Secretary of Agriculture of those mineral materials which the Secretary of Agriculture is authorized to dispose of from other lands under his jurisdiction under the Act of July 31, 1947 (61 Stat. 681), as amended by the Act of July 23, 1955 (69 Stat. 367; 30 U.S.C. 601 and the following).

"Sec. 2(a). In no case covered by subsections (a), (b), (e), (g), and (h) of section 1 hereof shall the exchange provide for the patenting of land by the United States without a reservation of minerals (1) unless the Secretary of Agriculture has obtained the advice of the Secretary of the Interior that the land is nonmineral in character, or (2) unless the Secretary of the Interior approves of the valuation and disposition of the minerals in the lands to be patented. A sale of land covered by subsection (j) of section 1 hereof shall be made by the Secretary of Agriculture without a reservation of minerals only after consultation with, and the approval of, the Secretary of the Interior as to the valuation and disposition of the minerals. No lands of the United States shall be exchanged in any case covered by subsection (f) of section 1 hereof unless the Secretary of Agriculture has obtained the advice of the Secretary of the Interior that such lands are nonmineral in character.

"(b) Nothing in this Act shall be construed to authorize the Secretary of Agriculture to determine or adjudicate the validity or invalidity of any mining claim or part thereof.

"(c) Nothing in subsection (1) of section 1 hereof shall be construed to authorize the Secretary of Agriculture to dispose of coal, phosphate, sodium, potassium, oil, oil shale, gas, or sulfur, or to dispose of any minerals which would be subject to disposal under the mining laws if said laws were applicable to the lands in which the minerals are situated.

"(d) Upon approval by the Secretary of Agriculture pursuant to the provisions of this Act of any exchange or sale, respectively, of national forest lands under the provisions of law referred to in subsections (a), (b), (e), (f), (g), and (j) of section 1, hereof, the Secretary of

the Interior, upon the recommendation of the Secretary of Agriculture, shall issue the patent therefor.

"(e) All conveyances under the Act referred to in subsection (h) of section 1 hereof of national forest lands reserved from the public domain shall, upon recommendation of the Secretary of Agriculture, be made by the Secretary of the Interior."

REORGANIZATION PLAN NO. 2 OF 1953

Eff. June 4, 1953, 18 F.R. 3219, 67 Stat. 633

DEPARTMENT OF AGRICULTURE

SECTION 1. TRANSFER OF FUNCTIONS TO THE SECRETARY

(a) Subject to the exceptions specified in subsection (b) of this section, there are hereby transferred to the Secretary of Agriculture all functions not now vested in him of all other officers, and of all agencies and employees, of the Department of Agriculture.

(b) This section shall not apply to the functions vested by the Administrative Procedure Act [sections 551 et seq. and 701 et seq. of Title 5, Government Organization and Employees] in hearing examiners employed by the Department of Agriculture nor to the functions of (1) corporations of the Department of Agriculture, (2) the boards of directors and officers of such corporations, (3) the Advisory Board of the Commodity Credit Corporation, or (4) the Farm Credit Administration or any agency, officer, or entity of, under, or subject to the supervision of the said administration.

SEC. 2. ASSISTANT SECRETARIES OF AGRICULTURE

Two additional Assistant Secretaries of Agriculture shall be appointed by the President, by and with the advice and consent of the Senate. Each such Assistant Secretary shall perform such functions as the Secretary of Agriculture shall, from time to time, prescribe and each shall receive compensation at the rate prescribed by law for Assistant Secretaries of executive departments.

SEC. 3. ADMINISTRATIVE ASSISTANT SECRETARY

An Administrative Assistant Secretary of Agriculture shall be appointed, with the approval of the President, by the Secretary of Agriculture under the classified civil service, and shall perform such functions as the Secretary of Agriculture shall, from time to time, prescribe. The provisions of the item numbered (1) of the third proviso under the heading "General Provisions" appearing in Chapter XI of the Third Supplemental Appropriation Act, 1952, approved June 5, 1952 (66 Stat. 121), are hereby made applicable to the position of Administrative Assistant Secretary of Agriculture.

SEC. 4. DELEGATION OF FUNCTIONS

(a) The Secretary of Agriculture may from time to time make such provisions as he shall deem appropriate authorizing the performance by any other officer, or by any agency or employee, of the Department of Agriculture of any function of the Secretary, including any function transferred to the Secretary by the provisions of this reorganization plan.

(b) To the extent that the carrying out of subsection (a) of this section involves the assignment of major functions or major groups of functions to major constituent organizational units of the Department of Agriculture, now or hereafter existing, or to the heads or other officers thereof, and to the extent deemed practicable by the Secretary, he shall give appropriate advance public notice of delegations of functions proposed to be made by him and shall afford appropriate opportunity for interested persons and groups to place before the Department of Agriculture their views with respect to such proposed delegations.

(c) In carrying out subsection (a) of this section the Secretary shall seek to simplify and make efficient the operation of the Department of Agriculture, to place the administration of farm programs close to the State and local levels, and to adapt the administration of the programs of the Department to regional, State, and local conditions.

SEC. 5. INCIDENTAL TRANSFERS

The Secretary of Agriculture may from time to time effect such transfers within the Department of Agriculture of any of the records, property, and personnel affected by this reorganization plan and such transfers of unexpended balances (available or to be made available for use in connection with any affected function or agency) of appropriations, allocations, and other funds of such Department, as he deems necessary to carry out the provisions of this reorganization plan; but such unexpended balances so transferred shall be used only for the purposes for which such appropriation was originally made.

§ 2202. Executive Department; Secretary

The Department of Agriculture shall be an executive department, under the supervision and control of a Secretary of Agriculture, who shall be appointed by the President, by and with the advice and consent of the Senate. The provisions of title IV of the Revised Statutes, including all amendments thereto, shall be applicable to said department; and all laws and parts of laws relating to the Department of Agriculture in existence February 9, 1889, as far as the same are applicable and not in conflict with this section, and only so far, are continued in full force and effect.

(Feb. 9, 1889, ch. 122, §§ 1, 4, 25 Stat. 659.)

REFERENCES IN TEXT

Title IV of the Revised Statutes, referred to in text, was entitled "Provisions Applicable to All Executive Departments, and consisted of sections 158 to 198. For provisions of the Code derived from such title IV, see sections 101, 301 to 304, 503, 2952, 3101, 3106, 3341, 3345 to 3349, 5535, 5536 of Title 5, Government Organization and Employees; section 207 of Title 18, Crimes and Criminal Procedure; sections 514, 520 of Title 28, Judiciary and Judicial Procedure; sections 492-1, 492-2 of Title 31, Money and Finance.

CODIFICATION

Section was formerly classified to section 512 of Title 5 prior to the general revision and enactment of Title 5, Government Organization and Employees, by Pub. L. 89-554, § 1, Sept. 6, 1966, 80 Stat. 378.

TRANSFER OF FUNCTIONS

All functions of all officers, agencies and employees of the Department of Agriculture were transferred, with certain exceptions, to the Secretary of Agriculture by 1953 Reorg. Plan No. 2, § 1, eff. June 4, 1953, 18 F.R. 3219, 67 Stat. 633, set out as a note under section 2201 of this title.

ORDER OF SUCCESSION

For order of succession in case of absence, sickness, resignation, or death of Secretary, see Ex. Ord. No. 11793, July 10, 1974, 39 F.R. 25631, set out as a note under section 3347 of Title 5, Government Organization and Employees.

CROSS REFERENCES

Annual rate of basic compensation of Secretary, see section 5312 of Title 5, Government Organization and Employees.

§ 2203. Seal

The Secretary of Agriculture is authorized and directed to procure a proper seal, with such

suitable inscriptions and devices as he may approve, to be known as the official seal of the Department of Agriculture, and to be kept and used to verify official documents, under such rules and regulations as he may prescribe.

(Aug. 8, 1894, ch. 238, 28 Stat. 272.)

CODIFICATION

Section was formerly classified to section 513 of Title 5 prior to the general revision and enactment of Title 5, Government Organization and Employees, by Pub. L. 89-554, § 1, Sept. 6, 1966, 80 Stat. 378.

§ 2204. General duties of Secretary; advisory functions; National rural development program, report to Congress

(a) The Secretary of Agriculture shall procure and preserve all information concerning agriculture and rural development which he can obtain by means of books and correspondence, and by practical and scientific experiments, accurate records of which experiments shall be kept in his office, by the collection of statistics, and by any other appropriate means within his power; he shall collect new and valuable seeds and plants; shall test, by cultivation, the value of such of them as may require such tests; shall propagate such as may be worthy of propagation; and shall distribute them among agriculturists; and he shall advise the President, other members of his Cabinet, and the Congress on policies and programs designed to improve the quality of life for people living in the rural and nonmetropolitan regions of the Nation.

(b) The Secretary of Agriculture is authorized and directed to provide leadership and coordination within the executive branch and shall assume responsibility for coordinating a nationwide rural development program utilizing the services of executive branch departments and agencies and the agencies, bureaus, offices, and services of the Department of Agriculture in coordination with rural development programs of State and local governments. In carrying out this responsibility the Secretary of Agriculture shall establish employment, income, population, housing, and quality of community services and facilities goals for rural development and report annually prior to December 1 to Congress on progress in attaining such goals. The Secretary is authorized to initiate or expand research and development efforts related to solution of problems of rural water supply, rural sewage and solid waste management, rural housing, and rural industrialization.

(R.S. § 526; Pub. L. 92-419, title VI, § 603(b), Aug. 30, 1972, 86 Stat. 675; Pub. L. 94-273, § 7(4), Apr. 21, 1976, 90 Stat. 378.)

CODIFICATION

Section was formerly classified to section 514 of Title 5 prior to the general revision and enactment of Title 5, Government Organization and Employees, by Pub. L. 89-554, § 1, Sept. 6, 1966, 80 Stat. 378.

AMENDMENTS

1976—Subsec. (b). Pub. L. 94-273 substituted "December" for "September".

1972—Subsec. (a). Pub. L. 92-419, § 603(b)(1)-(3), designated existing provisions as subsec. (a), provided for information concerning rural development, and prescribed advisory functions of the Secretary, respectively.

Subsec. (b). Pub. L. 92-419, § 603(b)(4), added subsec. (b).

TRANSFER OF FUNCTIONS

All functions of all officers, agencies and employees of the Department of Agriculture were transferred, with certain exceptions, to the Secretary of Agriculture by 1953 Reorg. Plan No. 2, § 1, eff. June 4, 1953, 18 F.R. 3219, 67 Stat. 633, set out as a note under section 2201 of this title.

Functions of Secretary of Agriculture administered through the former Bureau of Biological Survey relating to conservation of wildlife, game, and migratory birds were transferred to Secretary of the Interior by 1939 Reorg. Plan No. II, § 4(f), eff. July 1, 1939, 4 F.R. 2731, 53 Stat. 1433, set out in the Appendix to Title 5, Government Organization and Employees.

Delegation of authority to Secretary with respect to the nation's food program during war emergency, see Ex. Ord. No. 9280, set out as a note under section 452 of this title.

EMERGENCY PREPAREDNESS FUNCTIONS

For assignment of certain emergency preparedness functions to the Secretary of Agriculture, see Parts 1, 8, and 30 of Ex. Ord. No. 11490, Oct. 28, 1969, 34 F.R. 17567, set out as a note under section 2292 of Title 50, Appendix, War and National Defense.

Ex. Ord. No. 10998, Feb. 16, 1962, 27 F.R. 1524, directed the Secretary of Agriculture to prepare national emergency plans and develop preparedness programs covering food resources, farm equipment, fertilizer, and food resource facilities; rural fire control; defense against biological warfare, chemical warfare, and radiological fallout pertaining to agricultural activities; and rural defense information and education, all designed to develop a state of readiness in these areas with respect to all conditions of national emergency, including attack upon the United States.

ORDER OF SUCCESSION

Order of succession upon death, absence, sickness, or resignation of the Secretary of Agriculture, see Ex. Ord. No. 11793, July 10, 1974, 39 F.R. 25631, set out as a note under section 3347 of Title 5, Government Organization and Employees.

PRIOR PROVISIONS

R.S. § 526 was derived from act May 15, 1862, ch. 72, § 3, 12 Stat. 387.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2204a of this title.

§ 2204a. Rural development; utilization of non-Federal offices; location of field units; interchange of personnel and facilities; contents of reports

(1) The Secretary of Agriculture shall utilize to the maximum extent practicable State, regional, district, county, local, or other Department of Agriculture offices to enhance rural development, and shall to the maximum extent practicable provide directly, or, in the case of agencies outside of the Department of Agriculture, through arrangements with the heads of such agencies, for—

(A) the location of all field units of the Federal Government concerned with rural development in the appropriate Department of Agriculture offices covering the geographical areas most similar to those covered by such field units, and

(B) the interchange of personnel and facilities in each such office to the extent neces-

sary or desirable to achieve the most efficient utilization of such personnel and facilities and provide the most effective assistance in the development of rural areas in accordance with State rural development plans.

(2) The Secretary shall include in the report required by section 2204(b) of this title a report on progress made in carrying out paragraph (1) of this section, together with such recommendations as may be appropriate.

(Pub. L. 92-419, title VI, § 603(c), Aug. 30, 1972, 86 Stat. 675.)

CODIFICATION

"Section 2204(b) of this title" and "this section", in par. (2), originally read "this section" and "this subsection", respectively. The substitution was made in the codification of the provisions.

§ 2205. Duties of former Commissioner of Agriculture transferred to Secretary

The Secretary of Agriculture is authorized and directed to perform all the duties named in all Acts of Congress in force on February 8, 1889, to be performed by the Commissioner of Agriculture.

(Mar. 2, 1889, ch. 373, 25 Stat. 840; July 14, 1890, ch. 707, 26 Stat. 288.)

CODIFICATION

Section was formerly classified to section 515 of Title 5 prior to the general revision and enactment of Title 5, Government Organization and Employees, by Pub. L. 89-554, § 1, Sept. 6, 1966, 80 Stat. 378.

TRANSFER OF FUNCTIONS

All functions of all officers, agencies and employees of the Department of Agriculture were transferred, with certain exceptions, to the Secretary of Agriculture by 1953 Reorg. Plan No. 2, § 1, eff. June 4, 1953, 18 F.R. 3219, 67 Stat. 633, set out as a note under section 2201 of this title.

§ 2206. Custody of property and records

The Secretary of Agriculture shall have charge, in the building and premises appropriated to the department, of the library, furniture, fixtures, records, and other property appertaining to it, or acquired for use in its business.

(R.S. § 525.)

CODIFICATION

Section was formerly classified to section 516 of Title 5 prior to the general revision and enactment of Title 5, Government Organization and Employees, by Pub. L. 89-554, § 1, Sept. 6, 1966, 80 Stat. 378.

TRANSFER OF FUNCTIONS

All functions of all officers, agencies and employees of the Department of Agriculture were transferred, with certain exceptions, to the Secretary of Agriculture by 1953 Reorg. Plan No. 2, § 1, eff. June 4, 1953, 18 F.R. 3219, 67 Stat. 633, set out as a note under section 2201 of this title.

PRIOR PROVISIONS

R.S. § 525 was derived from act May 15, 1862, ch. 72, § 3, 12 Stat. 387 and Res. Dec. 15, 1868, No. 1, 15 Stat. 343.

§ 2207. Reports

The Secretary of Agriculture shall annually make a general report in writing of his acts to the President, in which he may recommend the publication of papers forming parts of or accompanying his report. He shall also make special reports on particular subjects whenever required to do so by the President or either House of Congress, or when he shall think the subject in his charge requires it.

(R.S. §§ 528, 529; May 29, 1928, ch. 901, § 1, 45 Stat. 993; Aug. 30, 1954, ch. 1076, § 1(6), 68 Stat. 966.)

CODIFICATION

Section was formerly classified to section 557 of Title 5 prior to the general revision and enactment of Title 5, Government Organization and Employees, by Pub. L. 89-554, § 1, Sept. 6, 1966, 80 Stat. 378.

AMENDMENTS

1954—Act Aug. 30, 1954, struck out provision in first sentence which required that the annual report should contain an account of all moneys received and expended by the Secretary.

1928—Act May 29, 1928, struck out requirement that there be included a statement of expenditures from contingent appropriations.

TRANSFER OF FUNCTIONS

All functions of all officers, agencies and employees of the Department of Agriculture were transferred, with certain exceptions, to the Secretary of Agriculture by 1953 Reorg. Plan No. 2, § 1, eff. June 4, 1953, 18 F.R. 3219, 67 Stat. 633, set out as a note under section 2201 of this title.

PRIOR PROVISIONS

R.S. §§ 528 and 529 were derived from the following acts: May 15, 1862, ch. 72, § 3, 12 Stat. 387; Mar. 2, 1867, § 1, 14 Stat. 440, 445.

§ 2208. Expenditure of appropriations; accounting

The Secretary of Agriculture shall direct and superintend the expenditure of all money appropriated to the Department and render accounts thereof.

(R.S. § 3677; Feb. 9, 1889, ch. 122, §§ 1, 4, 25 Stat. 659.)

CODIFICATION

Section was formerly classified to section 557a of Title 5 prior to the general revision and enactment of Title 5, Government Organization and Employees, by Pub. L. 89-554, § 1, Sept. 6, 1966, 80 Stat. 378.

TRANSFER OF FUNCTIONS

All functions of all officers, agencies and employees of the Department of Agriculture were transferred, with certain exceptions, to the Secretary of Agriculture by 1953 Reorg. Plan No. 2, § 1, eff. June 4, 1953, 18 F.R. 3219, 67 Stat. 633, set out as a note under section 2201 of this title.

§ 2209. Additional statement of expenditures

The Secretary of Agriculture shall furnish proper vouchers and accounts for the sums appropriated for the Department of Agriculture to the General Accounting Office.

(Mar. 3, 1885, ch. 338, § 2, 23 Stat. 356; Aug. 11, 1916, ch. 313, 39 Stat. 492; June 10, 1921, ch. 18 § 301, 42 Stat. 23; May 29, 1928, ch. 901, § 1, 45 Stat. 992.)

CODIFICATION

Section was formerly classified to section 558 of Title 5 prior to the general revision and enactment of Title 5, Government Organization and Employees, by Pub. L. 89-554, § 1, Sept. 6, 1966, 80 Stat. 378.

TRANSFER OF FUNCTIONS

All functions of all officers, agencies and employees of the Department of Agriculture were transferred, with certain exceptions, to the Secretary of Agriculture by 1953 Reorg. Plan No. 2, § 1, eff. June 4, 1953, 18 F.R. 3219, 67 Stat. 633, set out as a note under section 2201 of this title.

§ 2210. Deputy Secretary of Agriculture; appointment

There is established in the Department of Agriculture the position of Deputy Secretary of Agriculture, to be appointed by the President, by and with the advice and consent of the Senate.

(Mar. 26, 1934, ch. 89, title I, 48 Stat. 467; Oct. 19, 1976, Pub. L. 94-561, § 1(c)(1), 90 Stat. 2643.)

CODIFICATION

Provisions of this section which prescribed the basic compensation of the Under Secretary were omitted to conform to the provisions of act July 31, 1956, and are now covered by section 5314 of Title 5, Government Organization and Employees.

Section was formerly classified to section 514a of Title 5 prior to the general revision and enactment of Title 5, Government Organization and Employees, by Pub. L. 89-554, § 1, Sept. 6, 1966, 80 Stat. 378.

AMENDMENTS

1976—Pub. L. 94-561 substituted "Deputy Secretary of Agriculture" for "Under Secretary of Agriculture".

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94-561 effective Oct. 19, 1976, see section 5 of Pub. L. 94-561, set out as a note under section 5313 of Title 5, Government Organization and Employees.

TRANSFER OF FUNCTIONS

All functions of all officers, agencies and employees of the Department of Agriculture were transferred, with certain exceptions, to the Secretary of Agriculture by 1953, Reorg. Plan No. 2, § 1, eff. June 4, 1953, 18 F.R. 3219, 67 Stat. 633, set out as a note under section 2201 of this title.

STATUS OF INCUMBENT UNDER SECRETARY OF AGRICULTURE

Section 1(d) of Pub. L. 94-561 provided that: "The officer occupying the position of Under Secretary of Agriculture, on the date of enactment of this Act [Oct. 19, 1976], may assume the duties of the Deputy Secretary of Agriculture. The individual assuming such duties shall not be required to be reappointed by reason of the enactment of this Act."

§ 2211. Powers and duties of Deputy Secretary of Agriculture

The Deputy Secretary of Agriculture is authorized to exercise the functions and perform the duties of the first assistant of the Secretary of Agriculture within the meaning of section 3345 of title 5 and shall perform such other duties as may be required by law or prescribed by the Secretary of Agriculture.

(June 5, 1939, ch. 181, 53 Stat. 809; Oct. 19, 1976, Pub. L. 94-561, § 1(c)(2), 90 Stat. 2643.)

CODIFICATION

"Section 3345 of title 5" was substituted for "section 177 of the Revised Statutes of the United States (U.S.C., title 5, sec. 4)" on authority of section 7(b) of Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 631, the first section of which enacted Title 5, Government Organization and Employees.

Section was formerly classified to section 514b of Title 5 prior to the general revision and enactment of Title 5, Government Organization and Employees, by Pub. L. 89-554, § 1, Sept. 6, 1966, 80 Stat. 378.

AMENDMENTS

1976—Pub. L. 94-561 substituted "Deputy Secretary of Agriculture" for Under Secretary of Agriculture.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94-561 effective Oct. 19, 1976, see section 5 of Pub. L. 94-561, set out as a note under section 5313 of Title 5, Government Organization and Employees.

§ 2212. Assistant Secretary

There shall be in the Department of Agriculture an Assistant Secretary of Agriculture, to be appointed by the President, by and with the advice and consent of the Senate, who shall perform such duties as may be required by law or prescribed by the Secretary. The Assistant Secretary of Agriculture is authorized to perform such duties in the conduct of the business of the Department of Agriculture as may be assigned by the Secretary of Agriculture.

(Feb. 9, 1889, ch. 122, § 2, 25 Stat. 659; June 30, 1906, ch. 3913, 34 Stat. 670.)

CODIFICATION

Section was formerly classified to section 517 of Title 5 prior to the general revision and enactment of Title 5, Government Organization and Employees, by Pub. L. 89-554, § 1, Sept. 6, 1966, 80 Stat. 378.

TRANSFER OF FUNCTIONS

All functions of all officers, agencies and employees of the Department of Agriculture were transferred, with certain exceptions, to the Secretary of Agriculture by 1953, Reorg. Plan No. 2, § 1, eff. June 4, 1953, 18 F.R. 3219, 67 Stat. 633, set out as a note under section 2201 of this title.

ADDITIONAL ASSISTANT SECRETARIES

One additional Assistant Secretary of Agriculture, in addition to the Assistant Secretary for Administration and the three Assistant Secretaries already provided for by law, was directed by Pub. L. 92-419, title VI, § 604(a), Aug. 30, 1972, 86 Stat. 676, which is classified to section 2212a of this title.

Two additional Assistant Secretaries of Agriculture and an Administrative Assistant Secretary were authorized to be appointed by 1953 Reorg. Plan No. 2, §§ 2, 3, eff. June 4, 1953, 18 F.R. 3219, 67 Stat. 633, set out as a note under section 2201 of this title.

CROSS REFERENCES

Annual basic compensation of Assistant Secretaries, see section 5315 of Title 5, Government Organization and Employees.

§ 2212a. Additional Assistant Secretary of Agriculture; appointment

In addition to the Assistant Secretaries of Agriculture now provided for by law, there shall be one additional Assistant Secretary of Agriculture, who shall be appointed by the Presi-

dent, by and with the advice and consent of the Senate.

(Pub. L. 92-419, title VI, § 604(a), Aug. 30, 1972, 86 Stat. 676.)

§ 2212b. Additional Assistant Secretary of Agriculture; appointment, duties and compensation

There shall be hereafter in the Department of Agriculture, in addition to the Assistant Secretaries now provided for by law, one additional Assistant Secretary of Agriculture who shall be appointed by the President, by and with the advice and consent of the Senate, shall be responsible for such duties as the Secretary of Agriculture shall prescribe, and shall receive compensation at the rate now or hereafter prescribed by law for Assistant Secretaries of Agriculture.

(Pub. L. 94-561, § 2, Oct. 19, 1976, 90 Stat. 2643.)

Effective Date

Section effective Oct. 19, 1976, see section 5 of Pub. L. 94-561, set out as a note under section 5313 of Title 5, Government Organization and Employees.

§ 2213. Assistant Secretary for Administration

The position of Assistant Secretary of Agriculture for Administration established by Reorganization Plan Numbered 2 of 1953, shall be filled without reference to section 1310 of Public Law 253 of the Eighty-second Congress, as amended.

(June 5, 1952, ch. 369, ch. XI, § 1101, 66 Stat. 121; 1953 Reorg. Plan No. 2, § 3, eff. June 4, 1953, 18 F.R. 3219, 67 Stat. 633; June 28, 1955, ch. 189, § 12(c)(16), 69 Stat. 182; Aug. 14, 1964, Pub. L. 88-426, Title III, § 307, 78 Stat. 432.)

References in Text

Section 1310 of Public Law 253 of the Eighty-second Congress, as amended, referred to in the text, is set out as a note under section 3101 of Title 5, Government Organization and Employees.

1953 Reorg. Plan No. 2, set out as a note under section 2201 of this title, made provisions of act June 5, 1952 applicable to the position of Administrative Assistant Secretary of Agriculture, which was created by said Plan.

Codification

Provisions which related to compensation of the Assistant Secretary for Administration were omitted as superseded by section 5316 of Title 5, Government Organization and Employees.

Section was formerly classified to section 517b of Title 5 prior to the general revision and enactment of Title 5, Government Organization and Employees, by Pub. L. 89-554, § 1, Sept. 6, 1966, 80 Stat. 378.

Amendments

1955—Act June 28, 1955, eliminated provisions which required the position of Administrative Assistant Secretary to be placed in the highest grade set forth in the Classification Act of 1949.

Change of Name

"Assistant Secretary of Agriculture for Administration" was substituted for "Administrative Assistant Secretary of Agriculture" pursuant to section 307 of Pub. L. 88-426.

Effective Date of 1955 Amendment

Amendment by act June 28, 1955, effective June 28, 1955.

Cross References

Annual basic compensation of Assistant Secretary, see section 5316 of Title 5, Government Organization and Employees.

§ 2214. General Counsel; appointment

(a) The President shall appoint on and after July 31, 1956, by and with the advice and consent of the Senate, a General Counsel of the Department of Agriculture.

(b) The existing office of General Counsel of the Department of Agriculture shall be abolished effective upon the appointment and qualification of the General Counsel provided for by subsection (a) of this section or April 1, 1957, whichever is earlier.

(July 31, 1956, ch. 804, title III, § 301, 70 Stat. 742.)

Codification

Section is based on that part of section 301 of act July 31, 1956, relating to the General Counsel of the Department of Agriculture. That part of such section 301 relating to the General Counsel of the Department of Health, Education, and Welfare, is classified to section 3504 of Title 42, The Public Health and Welfare. That part of such section 301 relating to the General Counsel of the Post Office Department was enacted as section 307 of Title 39 by Pub. L. 86-682, Sept. 2, 1960, 74 Stat. 580. Such provisions were eliminated from Title 39 by the Postal Reorganization Act, Pub. L. 91-375, Aug. 12, 1970, 84 Stat. 719.

Section was formerly classified to section 518a of Title 5 prior to the general revision and enactment of Title 5, Government Organization and Employees, by Pub. L. 89-554, § 1, Sept. 6, 1966, 80 Stat. 378.

Cross References

Compensation of General Counsel, see section 5315 of Title 5, Government Organization and Employees.

§ 2215. Chief clerk

The Secretary of Agriculture shall appoint a chief clerk.

(R.S. § 523; Feb. 10, 1925, ch. 200, 43 Stat. 822.)

Codification

Section was formerly classified to section 519 of Title 5 prior to the general revision and enactment of Title 5, Government Organization and Employees, by Pub. L. 89-554, § 1, Sept. 6, 1966, 80 Stat. 378.

Prior Provisions

R.S. § 523, was derived from act May 15, 1862, ch. 72, § 4, 12 Stat. 388.

§ 2216. Repealed. Pub. L. 92-310, title II, § 221(a), June 6, 1972, 86 Stat. 205

Section, R.S. § 524; acts Mar. 2, 1895, ch. 177, § 5, 28 Stat. 807; May 10, 1934, ch. 277, § 512(b), 48 Stat. 759, related to the bond of the chief clerk of the Department of Agriculture.

Section was formerely classified to section 520 of Title 5 prior to the general revision and enactment of Title 5 by Pub. L. 89-554, § 1, Sept. 6, 1966, 80 Stat. 378.

§ 2217. Oaths, affirmations, and affidavits taken by officers, agents, or employees of Department; use and effect

Such officers, agents, or employees of the Department of Agriculture of the United States as are designated by the Secretary of Agriculture for the purpose are authorized and empowered

to administer to or take from any person an oath, affirmation, or affidavit whenever such oath, affirmation, or affidavit is for use in any prosecution or proceeding under or in the enforcement of any law committed to or which may be committed to the Secretary of Agriculture or the Department of Agriculture or any bureau or subdivision thereof for administration. Any such oath, affirmation, or affidavit administered or taken by or before such officer, agent, or employee when certified under his hand and authenticated by the seal of the Department of Agriculture may be offered or used in any court of the United States and shall have like force and effect as if administered or taken before a clerk of such court without further proof of the identity or authority of such officer, agent, or employee.

(Jan. 31, 1925, ch. 124, § 1, 43 Stat. 803.)

CODIFICATION

Section was formerly classified to section 521 of Title 5 prior to the general revision and enactment of Title 5, Government Organization and Employees, by Pub. L. 89-554, § 1, Sept. 6, 1966, 80 Stat. 378.

DEPARTMENT OF INTERIOR PERSONNEL

Provisions of this section were made applicable to such officers, agents, or employees of Department of Interior performing functions of former Bureau of Biological Survey as are designated by Secretary of Interior for purposes named herein by 1939 Reorg. Plan No. II, § 4(g), eff. July 1, 1939, 4 F.R. 2731, 53 Stat. 1433, set out in the Appendix to Title 5, Government Organization and Employees. See also sections 401 to 404 of said plan for provisions relating to transfer of functions, records, property, personnel, and funds. Bureau of Biological Survey was subsequently consolidated with Bureau of Fisheries into Fish and Wildlife Service in Department of Interior by 1940 Reorg. Plan No. III, § 3, eff. June 30, 1940, 5 F.R. 2107, 54 Stat. 1232, also set out in the Appendix to Title 5.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2218 of this title.

§ 2218. Fee for administering or taking oaths, affirmations, and affidavits

No officer, agent, or employee of the Department of Agriculture shall demand or accept any fee or compensation whatsoever for administering or taking any oath, affirmation, or affidavit under the authority conferred by section 2217 of this title.

(Jan. 31, 1925, ch. 124, § 2, 43 Stat. 803.)

CODIFICATION

Section was formerly classified to section 522 of Title 5 prior to the general revision and enactment of Title 5, Government Organization and Employees, by Pub. L. 89-554, § 1, Sept. 6, 1966, 80 Stat. 378.

TRANSFER OF FUNCTIONS

All functions of all officers, agencies and employees of the Department of Agriculture were transferred, with certain exceptions, to the Secretary of Agriculture by 1953, Reorg. Plan No. 2, § 1, eff. June 4, 1953, 18 F.R. 3219, 67 Stat. 633, set out as a note under section 2201 of this title.

DEPARTMENT OF INTERIOR PERSONNEL

Application to Department of the Interior employees, see note under section 2217 of this title.

§ 2219. Salaries; how paid

The Secretary of Agriculture is authorized and directed to pay the salary of each employee from the roll of the bureau, independent division, or office in which the employee is working, and no other.

(Mar. 4, 1907, ch. 2907, 34 Stat. 1280.)

CODIFICATION

Section was formerly classified to section 528 of Title 5 prior to the general revision and enactment of Title 5, Government Organization and Employees, by Pub. L. 89-554, § 1, Sept. 6, 1966, 80 Stat. 378.

§ 2220. Certain officials and employees of Department and others not subject to restriction on payment of compensation to Government officials and employees

The officials and the employees of the Department of Agriculture engaged in the activities described in section 450b of this title and paid in whole or in part out of funds contributed as provided therein, and the persons, corporations, or associations making contributions as therein provided, shall not be subject to the provisions of section 1914 of title 18; nor shall any official or employee engaged in the cooperative activities of the Forest Service, or the persons, corporations, or associations contributing to such activities be subject to such section.

(July 24, 1919, ch. 26, 41 Stat. 270; Sept. 3, 1954, ch. 1263, § 5, 68 Stat. 1227.)

REFERENCES IN TEXT

Section 1914 of title 18, referred to in text, was repealed, and is now covered by section 209 of Title 18, Crimes and Criminal Procedure.

CODIFICATION

Section was formerly classified to sections 67 and 564 of Title 5 prior to the general revision and enactment of Title 5, Government Organization and Employees, by Pub. L. 89-554, § 1, Sept. 6, 1966, 80 Stat. 378. Thereafter, section was classified to section 450h of this title prior to its transfer to this section.

AMENDMENTS

1954—Act Sept. 3, 1954, substituted "section 1914 of Title 18" for "section 66 of this title".

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 16 section 743.

§ 2221. Details of persons from or to office of Secretary

Details may be made from or to the office of the Secretary when necessary and the services of the person whom it is proposed to detail are not required in that office.

(Mar. 4, 1907, ch. 2907, 34 Stat. 1280.)

CODIFICATION

Section was formerly classified to section 530 of Title 5 prior to the general revision and enactment of Title 5, Government Organization and Employees, by Pub. L. 89-554, § 1, Sept. 6, 1966, 80 Stat. 378.

§ 2222. Details of law clerks

Law clerks may be detailed by the Secretary of Agriculture for service in or out of Washington.

(Mar. 4, 1911, ch. 238, 36 Stat. 1236.)

CODIFICATION

Section was formerly classified to section 531 of Title 5 prior to the general revision and enactment of Title 5, Government Organization and Employees, by Pub. L. 89-554, § 1, Sept. 6, 1966, 80 Stat. 378.

§ 2223. Details of employees from and to library and bureaus and offices

Employees of the library may be temporarily detailed by the Secretary of Agriculture for library service in the bureaus and offices of the department, and employees of the bureaus and offices of the department engaged in library work may also be temporarily detailed to the library.

(Mar. 4, 1911, ch. 238, 36 Stat. 1261.)

REFERENCES IN TEXT

The library, referred to in text, is the library of the Department of Agriculture, now known as the National Agricultural Library.

CODIFICATION

Section was formerly classified to section 532 of Title 5 prior to the general revision and enactment of Title 5, Government Organization and Employees, by Pub. L. 89-554, § 1, Sept. 6, 1966, 80 Stat. 378.

TRANSFER OF FUNCTIONS

All functions of all officers, agencies and employees of the Department of Agriculture were transferred, with certain exceptions, to the Secretary of Agriculture by 1953 Reorg. Plan No. 2, § 1, eff. June 4, 1953, 18 F.R. 3219, 67 Stat. 633, set out as a note under section 2201 of this title.

§ 2224. Details of employees from and to Division of Accounts and Disbursements and bureaus and offices; traveling expenses

Employees of the Division of Accounts and Disbursements may be detailed by the Secretary of Agriculture for accounting and disbursing work in any of the bureaus and offices of the department for duty in or out of the city of Washington, and employees of the bureaus and offices of the department may also be detailed to the Division of Accounts and Disbursements for duty in or out of the city of Washington, traveling expenses of employees so detailed to be paid from the appropriation of the bureau or office in connection with which such travel is performed.

(Aug. 10, 1912, ch. 284, 37 Stat. 294.)

REFERENCES IN TEXT

The Division of Accounts and Disbursements, referred to in text, was a division of the Department of Agriculture at the time of enactment of this section. The activities of that Division are now performed by the various departmental offices in the Department of Agriculture under the Assistant Secretary of Agriculture for Administration. In a similar consolidation of operations, but one carried out in a different department, the Division of Disbursement and certain other offices and agencies and their functions in the Treasury Department were consolidated into the Fiscal Service of the Treasury Department by 1940 Reorg. Plan No. III, § 1(a), eff. June 30, 1940, 5 F.R. 2107, 54 Stat. 1231, set out in the Appendix to Title 5, Government Organization and Employees.

CODIFICATION

Section was formerly classified to section 533 of Title 5 prior to the general revision and enactment of Title 5, Government Organization and Employees, by Pub. L. 89-554, § 1, Sept. 6, 1966, 80 Stat. 378.

TRANSFER OF FUNCTIONS

All functions of all officers, agencies and employees of the Department of Agriculture were transferred, with certain exceptions, to the Secretary of Agriculture by 1953 Reorg. Plan No. 2, § 1, eff. June 4, 1953, 18 F.R. 3219, 67 Stat. 633, set out as a note under section 2201 of this title.

§ 2225. Employment of temporary personnel

The Department of Agriculture may employ persons or organizations, on a temporary basis, by contract or otherwise: *Provided*, That no expenditures for such temporary employment shall be made unless provision is made therefor in the applicable appropriation and the cost thereof is not in excess of limitations prescribed therein.

(Sept. 21, 1944, ch. 412, title VII, § 706(a), 58 Stat. 742; Ex. Ord. No. 9577, June 29, 1945, 10 F.R. 4253.)

CODIFICATION

This section was enacted as a part of the Department of Agriculture Organic Act of 1944.

First sentence of section which related to the authority of the War Food Administrator to employ personnel was omitted on the authority of Ex. Ord. No. 9577, which terminated the War Food Administration.

The exception from "the Classification Act of 1923, as amended" was omitted as obsolete. Sections 1202 and 1204 of the Classification Act of 1949 (63 Stat. 972, 973) repealed the 1923 Act and all laws or parts of laws inconsistent with the 1949 Act. While section 1106(a) of the 1949 Act provided that references in other laws to the 1923 Act should be held and considered to mean the 1949 Act, it did not have the effect of continuing the exception contained in this section because of section 1106(b) that provided that the application of the 1949 Act to any position, officer, or employee shall not be affected by section 1106(a). The Classification Act of 1949 was repealed by Pub. L. 89-544, § 8(a), Sept. 6, 1966, 80 Stat. 632 (section 1 of which revised and enacted Title 5, Government Organization and Employees, into law). Section 5102 of Title 5 now contains the applicability provisions of the 1949 Act.

Section was formerly classified to section 574 of Title 5 prior to the general revision and enactment of Title 5 by Pub. L. 89-554, § 1, Sept. 6, 1966, 80 Stat. 378.

TRANSFER OF FUNCTIONS

All functions of all officers, agencies and employees of the Department of Agriculture were transferred, with certain exceptions, to the Secretary of Agriculture by 1953 Reorg. Plan No. 2, § 1, eff. June 4, 1953, 18 F.R. 3219, 67 Stat. 633, set out as a note under section 2201 of this title.

CROSS REFERENCES

Employment of personnel by the Agriculture Adjustment Agency, see section 610 of this title.

Temporary or intermittent employment of experts and consultants, see section 3109 of Title 5, Government Organization and Employees.

§ 2226. Employment of persons for forest fire fighting, pest control, and handling of animals

Notwithstanding any other provisions of law, the Department is authorized on and after August 31, 1951, to employ or otherwise contract with persons at regular rates of pay for necessary hours of work for emergency forest fire fighting and pest control and for handling

of animals, including dairy cattle, without regard to Sundays, Federal holidays, and the regular workweek.

(Aug. 31, 1951, ch. 374, title IV, § 407, 65 Stat. 246.)

CODIFICATION

Section was formerly classified to section 574a of Title 5 prior to the general revision and enactment of Title 5, Government Organization and Employees, by Pub. L. 89-554, § 1, Sept. 6, 1966, 80 Stat. 378.

§ 2227. Traveling expenses

The Secretary of Agriculture is authorized to purchase from appropriations made for traveling expenses for employees of the Department of Agriculture, mileage and mileage books, at commercial rates, in the manner in which such mileage or mileage books are usually purchased.

(Mar. 4, 1907, ch. 2907, 34 Stat. 1281.)

CODIFICATION

Section was formerly classified to section 538 of Title 5 prior to the general revision and enactment of Title 5, Government Organization and Employees, by Pub. L. 89-554, § 1, Sept. 6, 1966, 80 Stat. 378.

REPEAL

Insofar as the provisions of this section relating to subsistence may conflict with those of former sections 821 to 823, and 827 to 833 of Title 5, which are now covered by sections 102, 105, 2105, 2106, 5701, 5705, 5707 and 5708 of Title 5, Government Organization and Employees, they were repealed by former section 829 of Title 5, which is now covered by section 5708 of Title 5.

§ 2228. Emergency subsistence for employees

The Department of Agriculture is authorized to furnish subsistence to employees without consideration as, or deduction from, the compensation of such employees where warranted by emergency condition connected with the work under such regulations as the Secretary of Agriculture may prescribe.

(Aug. 3, 1956, ch. 950, § 5, 70 Stat. 1033.)

CODIFICATION

Section was formerly classified to section 541d of Title 5 prior to the general revision and enactment of Title 5, Government Organization and Employees, by Pub. L. 89-554, § 1, Sept. 6, 1966, 80 Stat. 378.

§ 2229. Travel and per diem expenses of temporary or seasonal employees

Under such regulations as may be prescribed by the Secretary of Agriculture, funds available to the Department of Agriculture may be used for the payment of transportation expenses and per diem in lieu of subsistence expenses, in accordance with subchapter I of chapter 57 of title 5, for travel between places of recruitment and duty, and while at places of duty, of persons appointed for temporary or seasonal services in inspection, classing or grading agricultural commodities.

(Aug. 3, 1956, ch. 950, § 12, 70 Stat. 1034.)

CODIFICATION

Section was formerly classified to section 541e of Title 5 prior to the general revision and enactment of Title 5, Government Organization and Employees, by Pub. L. 89-554, § 1, Sept. 6, 1966, 80 Stat. 378.

"Subchapter I of chapter 57 of title 5" was substituted for "the Travel Expense Act of 1949" on authority of section 7(b) of Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 631, section 1 of which enacted Title 5, Government Organization and Employees.

§ 2230. Employees in Alaska; subsistence, equipment, and supplies

The Secretary of Agriculture is authorized to furnish subsistence to employees of the United States Department of Agriculture in the Territory of Alaska, and to purchase personal equipment and supplies for them, and to make deductions to meet the cost thereof from any money appropriated for salary payments or otherwise due such employees.

(Feb. 16, 1931, ch. 200, 46 Stat. 1162.)

CODIFICATION

Section was formerly classified to section 543a of Title 5 prior to the general revision and enactment of Title 5, Government Organization and Employees, by Pub. L. 89-554, § 1, Sept. 6, 1966, 80 Stat. 378.

REPEAL

Insofar as the provisions of this section relating to subsistence may conflict with those of former sections 821 to 823, and 827 to 833 of Title 5, which are now covered by sections 102, 105, 2105, 2106, 5701, 5705, 5707 and 5708 of Title 5, Government Organization and Employees, they were repealed by former section 829 of Title 5, which is now covered by section 5708 of Title 5.

ADMISSION OF ALASKA AS STATE

Admission of Alaska into the Union was accomplished Jan. 3, 1959, upon issuance of Proc. No. 3269, Jan. 3, 1959, 24 F.R. 81, 73 Stat. c16, as required by sections 1 and 8(c) of Pub. L. 85-508, July 7, 1958, 72 Stat 339, set out as notes preceding section 21 of Title 48, Territories and Insular Possessions.

§ 2231. Official expenses of employees stationed abroad

Employees of the Department of Agriculture stationed abroad may, with the approval of the Secretary of Agriculture, enter into leases for official quarters, for periods not exceeding one year, and may pay rent, telephone, subscriptions to publications, and other charges incident to the conduct of their offices and the discharge of their duties, in advance, in any foreign country where custom or practice requires payment in advance.

(Sept. 21, 1944, ch. 412, title VII, § 705(c), 58 Stat. 742.)

CODIFICATION

This section was enacted as a part of the Department of Agriculture Organic Act of 1944.

Section was formerly classified to section 543b of Title 5 prior to the general revision and enactment of Title 5, Government Organization and Employees, by Pub. L. 89-554, § 1, Sept. 6, 1966, 80 Stat. 378.

SIMILAR PROVISIONS

Provisions similar to this section were carried in Department of Agriculture Appropriation Acts in the following years:

June 28, 1944, ch. 296, § 1, 58 Stat. 426.
July 12, 1943, ch. 215, § 1, 57 Stat. 393.
July 22, 1942, ch. 516, § 1, 56 Stat. 665.
July 1, 1941, ch. 267, § 1, 55 Stat. 409.

June 25, 1940, ch. 421, § 1, 54 Stat. 532.
June 30, 1939, ch. 253, title I, 53 Stat. 940.
June 16, 1938, ch. 464, title I, 52 Stat. 711.
June 29, 1937, ch. 404, 50 Stat. 395.

§ 2232. Stenographic reporting service

The Department of Agriculture is authorized to contract for stenographic reporting services.

(Sept. 21, 1944, ch. 412, title VII, § 705(b), 58 Stat. 742.)

Codification

This section was enacted as a part of the Department of Agriculture Organic Act of 1944.

Section was formerly classified to section 520a of Title 5 prior to the general revision and enactment of Title 5, Government Organization and Employees, by Pub. L. 89-554, § 1, Sept. 6, 1966, 80 Stat. 378.

Similar Provisions

Provisions similar to this section were carried in Department of Agriculture Appropriation Acts in the following years:

June 28, 1944, ch. 296, § 1, 58 Stat. 426.
July 12, 1943, ch. 215, § 1, 57 Stat. 392.
July 22, 1942, ch. 516, § 1, 56 Stat. 665.
July 1, 1941, ch. 267, § 1, 55 Stat. 408.
June 25, 1940, ch. 421, § 1, 54 Stat. 532.
June 30, 1939, ch. 253, title I, 53 Stat. 940.
June 16, 1938, ch. 464, title I, 52 Stat. 711.
June 29, 1937, ch. 404, 50 Stat. 395.
June 4, 1936, ch. 489, 49 Stat. 1421.
May 17, 1935, ch. 131, title I, § 1, 49 Stat. 248.
Mar. 26, 1934, ch. 89, 48 Stat. 468.
Mar. 3, 1933, ch. 203, 47 Stat. 1432.
July 7, 1932, ch. 443, 47 Stat. 610.
Feb. 23, 1931, ch. 278, 46 Stat. 1243.
May 27, 1930, ch. 341, 46 Stat. 393.
Feb. 16, 1929, ch. 227, 45 Stat. 1190.
May 16, 1928, ch. 572, 45 Stat. 540.
Jan. 18, 1927, ch. 39, 44 Stat. 977.
May 11, 1926, ch. 286, 44 Stat. 500.

§ 2233. Funds available for expenses of advisory committees

Funds available for carrying out the activities of the Department of Agriculture shall be available for expenses of advisory committees, including travel expenses in accordance with the provisions of section 5703 of title 5.

(Aug. 3, 1956, ch. 950, § 4, 70 Stat. 1033.)

Codification

"Section 5703 of title 5" was substituted for "section 5 of the Administrative Expenses Act of 1946, as amended" on authority of section 7(b) of Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 631, section 1 of which enacted Title 5, Government Organization and Employees.

Section was formerly classified to section 541c of Title 5 prior to the general revision and enactment of Title 5, Government Organization and Employees, by Pub. L. 89-554, § 1, Sept. 6, 1966, 80 Stat. 378.

§ 2234. Purchases for bureaus from appropriations for contingent expenses

The Secretary of Agriculture may purchase stationery, supplies, furniture, and miscellaneous materials from this appropriation for contingent expenses and transfer the same at actual cost to the various bureaus, divisions, and offices of the Department of Agriculture in the city of Washington, reimbursement therefor to be made to such appropriation by said bureaus, divisions, and offices from their lump-fund appropriations by transfer settlements through the Treasury Department.

(Aug. 10, 1912, ch. 284, 37 Stat. 296.)

Codification

Section was formerly classified to section 542 of Title 5 prior to the general revision and enactment of Title 5, Government Organization and Employees, by Pub. L. 89-554, § 1, Sept. 6, 1966, 80 Stat. 378.

Cross References

Budgetary appropriations for Department of Agriculture, see section 1 et seq. of Title 31, Money and Finance.

General Accounting Office to exercise some of functions formerly exercised by Treasury Department, see section 41 et seq. of Title 31, Money and Finance.

§ 2235. Working capital fund established; use of central services by bureaus, etc., of the Department

A working capital fund of $400,000 is established without fiscal year limitation, for the payment of salaries and other expenses necessary to the maintenance and operation of (1) central duplicating, photographic, and tabulating services, (2) a central motor-transport service for the maintenance, repair, and operation of motor-transport vehicles and other equipment, (3) a central supply service for the purchase, storage, handling, issuance, packing, or shipping of stationery, supplies, equipment, blank forms, and miscellaneous materials, for which stocks thereof, not to exceed $200,000 in value (except for the value of blank forms) at the close of any fiscal year, may be maintained sufficient to meet, in whole or in part, requirements of the bureaus and offices of the Department in the city of Washington and elsewhere, and (4) such other services as the Secretary, with the approval of the Director of the Office of Management and Budget, determines may be performed more advantageously as central services; said fund to be credited with advances or reimbursements from applicable funds of bureaus, offices, and agencies for which services are performed on the basis of rates which shall include estimated or actual charges for personal services, materials, equipment (including maintenance, repairs, and depreciation) and other expenses: *Provided,* That such advances shall not be available for any period beyond that provided by the Act appropriating the funds: *Provided further,* That such central services shall, to the fullest extent practicable, be used to make unnecessary the maintenance of separate like services in the bureaus, offices, and agencies of the department.

(July 12, 1943, ch. 215, § 1, 57 Stat. 393; Aug. 4, 1965, Pub. L. 89-106, § 7, 79 Stat. 432; 1970 Reorg. Plan No. 2, § 102, eff. July 1, 1970, 35 F.R. 7959, 84 Stat. 2085.)

Codification

Section was formerly classified to section 542-1 of Title 5 prior to the general revision and enactment of Title 5, Government Organization and Employees, by Pub. L. 89-554, § 1, Sept. 6, 1966, 80 Stat. 378.

Amendments

1965—Pub. L. 89-106 substituted "credited with advances or reimbursements" for "reimbursed" and inserted "That such advances shall not be available for

any period beyond that provided by the Act appropriating the funds: Provided further,".

TRANSFER OF FUNCTIONS

All functions vested by law (including reorganization plan) in the Bureau of the Budget or the Director of the Bureau of the Budget were transferred to the President of the United States by section 101 of 1970 Reorg. Plan No. 2. Section 102 of 1970 Reorg. Plan No. 2, redesignated Bureau of the Budget as the Office of Management and Budget and the offices of Director of the Bureau of the Budget, Deputy Director of the Bureau of the Budget, and Assistant Directors of the Bureau of the Budget as Director of the Office of Management and Budget, Deputy Director of the Office of Management and Budget, and Assistant Directors of the Office of Management and Budget, respectively. Section 103 of 1970 Reorg. Plan No. 2, transferred the records, property, personnel and funds of the Bureau of the Budget to the Office of Management and Budget. See Part I of Reorganization Plan No. 2 of 1970, set out in the Appendix to Title 5, Government Organization and Employees.

§ 2236. Working capital fund for Agricultural Research Center; establishment

There is established a working capital fund of $300,000, to be available without fiscal year limitation, for expenses necessary for furnishing facilities and services by the Agricultural Research Center to Government agencies. Said fund shall be reimbursed from applicable appropriations or other funds to cover the charges for such facilities and services, including handling and related charges, for equipment rentals (including depreciation, maintenance, and repairs), for supplies, equipment and materials, stores of which may be maintained at the Center, and for building construction, alterations, and repairs, and applicable appropriations or other funds may also be charged their proportionate share of the necessary general expenses of the Center not covered by the annual appropriation.

(Sept. 6, 1950, ch. 896, ch. VI, title I, § 101, 64 Stat. 658.)

CODIFICATION

Section was formerly classified to section 542-2 of Title 5 prior to the general revision and enactment of Title 5, Government Organization and Employees, by Pub. L. 89-554, § 1, Sept. 6, 1966, 80 Stat. 378.

§ 2237. Use of field work funds for employment of men with equipment, etc.

Funds available for field work in the Department of Agriculture shall be available for employment by contract or otherwise of men with equipment, boats, work animals, animal-drawn, and motor-propelled vehicles.

(June 4, 1936, ch. 489, 49 Stat. 1422.)

CODIFICATION

Section was formerly classified to section 542a of Title 5 prior to the general revision and enactment of Title 5, Government Organization and Employees, by Pub. L. 89-554, § 1, Sept. 6, 1966, 80 Stat. 378.

§ 2238. Use of field work funds for purchase of arms and ammunition

Funds available for field work in the Department of Agriculture may be used for the purchase of arms and ammunition whenever the individual purchase does not exceed $50, and for individual purchases exceeding $50, when such arms and ammunition cannot advantageously be supplied by the Secretary of the Army pursuant to section 4655 of title 10.

(June 4, 1936, ch. 489, 49 Stat. 1422.)

CODIFICATION

"Section 4655 of title 10" was substituted for "the Act of March 3, 1879 (20 Stat. 412) " on authority of section 49(b) of Act Aug. 10, 1956, ch. 1041, 70A Stat. 640, section 1 of which enacted Title 10, Armed Forces.

Section was formerly classified to section 542b of Title 5 prior to the general revision and enactment of Title 5, Government Organization and Employees, by Pub. L. 89-554, § 1, Sept. 6, 1966, 80 Stat. 378.

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by section 205(a) of act July 26, 1947, ch. 343, title II, 61 Stat. 501. Section 205(a) of act July 26, 1947, was repealed by section 53 of act Aug. 10, 1956, ch. 1041, 70A Stat. 641. Section 1 of act Aug. 10, 1956, enacted "Title 10, Armed Forces" which in sections 3010 to 3013 continued the military Department of the Army under the administrative supervision of a Secretary of the Army.

§ 2239. Use of funds for purchase of scientific and technical articles

Funds available to the Department of Agriculture may be used for the purchase of scientific and technical articles.

(Sept. 6, 1950, ch. 896, ch. VI, title IV, § 406, 64 Stat. 679; Sept. 23, 1950, ch. 1010, § 6, 64 Stat. 986.)

CODIFICATION

Provisions of section 406 of act Sept. 6, 1950, which related to use of funds for printing and binding, were omitted as having been rendered obsolete by section 6 of act Sept. 23, 1950.

Section was formerly classified to section 542c of Title 5 prior to the general revision and enactment of Title 5, Government Organization and Employees, by Pub. L. 89-554, § 1, Sept. 6, 1966, 80 Stat. 378.

§ 2240. Reimbursement of appropriation for salaries and compensation of employees in mechanical shops

The Secretary of Agriculture may, by transfer settlements through the General Accounting Office, reimburse any appropriation made for the salaries and compensation of employees in the mechanical shops of the department from the appropriation made for the bureau, office, or division for which any work in said shops is performed, and such reimbursement shall be at the actual cost of labor for such work.

(May 11, 1922, ch. 185, 42 Stat. 508.)

CODIFICATION

Section was formerly classified to section 543 of Title 5 prior to the general revision and enactment of Title 5, Government Organization and Employees, by Pub. L. 89-554, § 1, Sept. 6, 1966, 80 Stat. 378.

§ 2241. Sale or exchange of animals or animal products

The Secretary of Agriculture is authorized to sell in the open market or to exchange for other livestock such animals or animal products as cease to be needed in the work of the department, and all moneys received from the sale of such animals or animal products or as a bonus

in the exchange of the same shall be deposited in the Treasury of the United States as miscellaneous receipts.

(Mar. 4, 1915, ch. 144, 38 Stat. 1114.)

CODIFICATION

Section was formerly classified to section 549 of Title 5 prior to the general revision and enactment of Title 5, Government Organization and Employees, by Pub. L. 89-554, § 1, Sept. 6, 1966, 80 Stat. 378.

CROSS REFERENCES

Sale or exchange of animals not needed, see sections 483 to 485 of Title 40, Public Buildings, Property, and Works.

§ 2242. Sale of copies of card index of publications

The Secretary of Agriculture may furnish to such institutions or individuals as may care to buy them, copies of the card index of the publications of the department and of other agricultural literature prepared by the library, and charge for the same a price covering the additional expense involved in the preparation of these copies. He may furnish to such institutions or individuals as may care to buy them copies of the card index of agricultural literature prepared by the Office of Experiment Stations, and charge for the same a price covering the additional expense involved in the preparation of these copies, the money received from such sales to be deposited in the Treasury of the United States as miscellaneous receipts. He may furnish to such institutions or individuals as may care to buy them copies of the card index of agricultural literature prepared by the Department of Agriculture in connection with its administration of the Act of March second, eighteen hundred and eighty-seven [7 U.S.C. 361a et seq.], and the Act of March sixteenth, nineteen hundred and six, and the Acts amendatory of and supplementary thereto, and charge for the same a price covering the additional expenses involved in the preparation of these copies, the money received from such sales to be deposited in the Treasury of the United States as miscellaneous receipts.

(May 23, 1908, ch. 192, 35 Stat. 264, 266; Mar. 4, 1915, ch. 144, 38 Stat. 1109.)

REFERENCES IN TEXT

The Act of March second, eighteen hundred and eighty-seven, referred to in text, is act Mar 2, 1887, ch. 314, 24 Stat. 440, as amended, which is classified generally to sections 361a to 361i of this title. For complete classification of this Act to the Code, see Tables volume.

The act of March sixteenth, nineteen hundred and six, means act Mar. 16, 1906, ch. 951, 34 Stat. 64, which was classified to former sections 361, 366, 369, 371, 373 to 376, 380, and 382 of this title, and which was repealed by act Aug. 11, 1955, ch. 790, § 2, 69 Stat. 674.

CODIFICATION

Section was formerly classified to section 551 of Title 5 prior to the general revision and enactment of Title 5, Government Organization and Employees, by Pub. L. 89-554, § 1, Sept. 6, 1966, 80 Stat. 378.

TRANSFER OF FUNCTIONS

All functions of all officers, agencies and employees of the Department of Agriculture were transferred, with certain exceptions, to the Secretary of Agriculture by 1953 Reorg. Plan No. 2, § 1, eff. June 4, 1953, 18 F.R. 3219, 67 Stat. 633, set out as a note under section 2201 of this title.

Functions of the Office of Experiment Stations were transferred to the Secretary of Agriculture by 1947 Reorg. Plan No. 1, § 301, eff. July 1, 1947, 12 F.R. 4534, 61 Stat. 952, set out in the Appendix to Title 5, Government Organization and Employees.

CROSS REFERENCES

Secretary to furnish copies of card index of agriculture literature, see section 384 of this title.

§ 2243. Sale of photographic prints and maps

The Secretary of Agriculture may dispose of photographic prints (including bromide enlargements), lantern slides, transparencies, blueprints, and forest maps at cost and 10 per centum additional, and condemned property or materials under his charge in the same manner as provided by law for other bureaus.

(Mar. 4, 1907, ch. 2907, 34 Stat. 1269.)

CODIFICATION

Section was formerly classified to section 552 of Title 5 prior to the general revision and enactment of Title 5, Government Organization and Employees, by Pub. L. 89-554, § 1, Sept. 6, 1966, 80 Stat. 378.

§ 2244. Manufacture and sales of copies of bibliographies, photographic reproductions of books, and library supplies

The Secretary of Agriculture is authorized to make copies of bibliographies prepared by the Department library, microfilm and other photographic reproductions of books and other library materials in the Department and sell such bibliographies and reproductions at such prices (not less than estimated total cost of furnishing same) as he may determine, the money received from such sales to be deposited in the Treasury to the credit of the applicable appropriation current at the time the materials are furnished or payment therefor is received.

(Sept. 21, 1944, ch. 412, title VII, § 708, 58 Stat. 742.)

CODIFICATION

This section was enacted as a part of the Department of Agriculture Organic Act of 1944.

Section was formerly classified to section 552a of Title 5 prior to the general revision and enactment of Title 5, Government Organization and Employees, by Pub. L. 89-554, § 1, Sept. 6, 1966, 80 Stat. 378.

SIMILAR PROVISIONS

Provisions similar to this section were carried in Department of Agriculture Appropriation Acts in the following years:

June 28, 1944, ch. 296, § 1, 58 Stat. 429.
July 12, 1943, ch. 215, § 1, 57 Stat. 396.
July 22, 1942, ch. 516, § 1, 56 Stat. 665.

TRANSFER OF FUNCTIONS

All functions of all officers, agencies and employees of the Department of Agriculture were transferred, with certain exceptions, to the Secretary of Agriculture by 1953 Reorg. Plan No. 2, § 1, eff. June 4, 1953, 18 F.R. 3219, 67 Stat. 633, set out as a note under section 2201 of this title.

§ 2245. Sale of prints and lantern slides

The Secretary of Agriculture is authorized to furnish, upon application, prints and lantern slides from negatives in the possession of the

department and to charge for the same a price to cover the cost of preparation, such price to be determined and established by the Secretary of Agriculture, and the money received from such sales to be deposited in the Treasury of the United States.

(Mar. 4, 1907, ch. 2907, 34 Stat. 1281.)

CODIFICATION

Section was formerly classified to section 553 of Title 5 prior to the general revision and enactment of Title 5, Government Organization and Employees, by Pub. L. 89-554, § 1, Sept. 6, 1966, 80 Stat. 378.

§ 2246. Loan, rental, or sale of films

The Secretary of Agriculture is authorized, under such rules and regulations and subject to such conditions as he may prescribe, to loan, rent, or sell copies of films. In the sale or rental of films educational institutions or associations for agricultural education not organized for profit shall have preference; all moneys received from such rentals or sales to be covered into the Treasury of the United States as miscellaneous receipts.

(Mar. 4, 1917, ch. 179, 39 Stat. 1157; May 31, 1920, ch. 217, 41 Stat. 718.)

CODIFICATION

Section was formerly classified to section 554 of Title 5 prior to the general revision and enactment of Title 5, Government Organization and Employees, by Pub. L. 89-554, § 1, Sept. 6, 1966, 80 Stat. 378.

§ 2247. Sale of samples of pure sugars

The Secretary of Agriculture may furnish, upon application, samples of pure sugars, naval stores, microscopical specimens, and other products to State and municipal officers, educational institutions, and other parties and charge for the same a price to cover the cost thereof, such price to be determined and established by the Secretary, and the money received from sales to be deposited in the Treasury of the United States as miscellaneous receipts.

(Mar. 4, 1915, ch. 144, 38 Stat. 1101.)

CODIFICATION

Section was formerly classified to section 555 of Title 5 prior to the general revision and enactment of Title 5, Government Organization and Employees, by Pub. L. 89-554, § 1, Sept. 6, 1966, 80 Stat. 378.

§ 2248. Statistics relating to turpentine and rosin

The Secretary of Agriculture is authorized and directed to collect and/or compile and publish annually, and at such other times, and in such form and on such date or dates as he shall prescribe, statistics and essential information relating to spirits of turpentine and rosin produced, held, and used in the domestic and foreign commerce of the United States.

(Aug. 15, 1935, ch. 548, 49 Stat. 653.)

CODIFICATION

Section was formerly classified to section 556b of Title 5 prior to the general revision and enactment of Title 5, Government Organization and Employees, by Pub. L. 89-554, § 1, Sept. 6, 1966, 80 Stat. 378.

TRANSFER OF FUNCTIONS

All functions of all officers, agencies and employees of the Department of Agriculture were transferred, with certain exceptions, to the Secretary of Agriculture by 1953 Reorg. Plan No. 2, § 1, eff. June 4, 1953, 18 F.R. 3219, 67 Stat. 633, set out as a note under section 2201 of this title.

§ 2249. Amount and character of cooperation

Unless otherwise provided by the Department of Agriculture Organic Act of 1944 or by other statute, the measure and character of cooperation authorized by said Act on the part of the Federal Government and on the part of the cooperator shall be such as may be prescribed by the Secretary, unless otherwise provided for in the applicable appropriation.

(Sept. 21, 1944, ch. 412, title VII, § 711, 58 Stat. 743.)

REFERENCES IN TEXT

The Department of Agriculture Organic Act of 1944, referred to in text, is act Sept. 21, 1944, ch. 412, 58 Stat. 734. For classification of this Act in the Code, see Tables volume.

CODIFICATION

This section was enacted as a part of the Department of Agriculture Organic Act of 1944.

Section was formerly classified to section 564a of Title 5 prior to the general revision and enactment of Title 5, Government Organization and Employees, by Pub. L. 89-554, § 1, Sept. 6, 1966, 80 Stat. 378.

TRANSFER OF FUNCTIONS

All functions of all officers, agencies and employees of the Department of Agriculture were transferred, with certain exceptions, to the Secretary of Agriculture by 1953 Reorg. Plan No. 2, § 1, eff. June 4, 1953, 18 F.R. 3219, 67 Stat. 633, set out as a note under section 2201 of this title.

§ 2250. Construction and repair of buildings and public improvements

The Department of Agriculture is authorized to erect, alter, and repair such buildings and other public improvements as may be necessary to carry out its authorized work: *Provided*, That no building or improvement shall be erected or altered under this authority unless provision is made therefor in the applicable appropriation and the cost thereof is not in excess of limitations prescribed therein.

(Sept. 21, 1944, ch. 412, title VII, § 703, 58 Stat. 742.)

CODIFICATION

This section was enacted as a part of the Department of Agriculture Organic Act of 1944.

Section was formerly classified to section 565a of Title 5 prior to the general revision and enactment of Title 5, Government Organization and Employees, by Pub. L. 89-554, § 1, Sept. 6, 1966, 80 Stat. 378.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2254 of this title.

§ 2250a. Erection of buildings and other structures on non-Federal lands; duration of use of such lands; removal of structures after termination of use; availability of funds for expenses of acquiring long-term leases or other agreements

Notwithstanding the provisions of existing law, except the Commodity Credit Corporation Charter Act [15 U.S.C. 714 et seq.] and without regard to section 255 of title 40, but within the limitations of cost otherwise applicable, appropriations of the Department of Agriculture may be expended for the erection of buildings and other structures on land owned by States, counties, municipalities, or other political subdivisions, corporations, or individuals: *Provided,* That prior to such erection there is obtained the right to use the land for the estimated life of or need for the structure, including the right to remove any such structure within a reasonable time after the termination of the right to use the land: *Provided further,* That appropriations and funds available to the Department of Agriculture shall be available for expenses in connection with acquiring the right to use land for such purposes under long-term lease or other agreement.

(Pub. L. 89-106, § 1, Aug. 4, 1965, 79 Stat. 431.)

REFERENCES IN TEXT

The Commodity Credit Charter Act, referred to in text, is act June 29, 1948, ch. 704, 62 Stat. 1070, as amended, and is classified generally to subchapter II (§ 714 et seq.) of chapter 15 of Title 15, Commerce and Trade. For complete classification of this Act to the Code, see Short Title note set out under section 714 of Title 15 and Tables volume.

CODIFICATION

Section was formerly classified to section 565b of Title 5 prior to the general revision and enactment of Title 5, Government Organization and Employees, by Pub. L. 89-554, § 1, Sept. 6, 1966, 80 Stat. 378.

§ 2251. Reimbursement of Production and Marketing Administration appropriations for expenses of maintaining registers of indebtedness and making set-offs

Beginning with the fiscal year 1942, each appropriation to enable the Secretary of Agriculture to carry into effect any program administered through the Production and Marketing Administration may, in the discretion of the Secretary, be reimbursed out of the then current appropriation for the agency affected, for a fair share of the administrative expense, as estimated periodically or in advance by the Production and Marketing Administration of maintaining registers of indebtedness and making, out of such Production and Marketing Administration appropriation, set-offs under the order entered by the Secretary on May 8, 1937, as heretofore or hereafter amended, in favor of any other agency of the Government.

(July 22, 1942, ch. 516 § 1, 56 Stat. 691; 1946 Reorg. Plan No. 3, § 501(a), eff. July 16, 1946, 11 F.R. 7875, 60 Stat. 1100.)

CODIFICATION

Section was formerly classified to section 566 of Title 5 prior to the general revision and enactment of Title 5, Government Organization and Employees, by Pub. L. 89-554, § 1, Sept. 6, 1966, 80 Stat. 378.

TRANSFER OF FUNCTIONS

The Production and Marketing Administration functions were transferred to other units of the Department of Agriculture under Secretary's memorandum 1320, supp. 4, of Nov. 2, 1953.

All functions of all officers, agencies and employees of the Department of Agriculture were transferred, with certain exceptions, to the Secretary of Agriculture by 1953 Reorg. Plan No. 2, § 1, eff. June 4, 1953, 18 F.R. 3219, 67 Stat. 633, set out as a note under section 2201 of this title.

The Agriculture Adjustment Administration was consolidated into the Production and Marketing Administration by Secretary of Agriculture's Memorandum No. 1118, Aug. 18, 1945, which consolidation was ratified by 1946 Reorg. Plan No. 3, set out in the Appendix to Title 5, Government Organization and Employees.

§ 2252. Reimbursement of Production and Marketing Administration appropriations for costs of procuring agricultural commodities for nongovernmental agencies or foreign governments

Applicable appropriations available to the Production and Marketing Administration current at the time services are rendered or payment therefore is received may be reimbursed by nongovernmental agencies or foreign governments (by advance credits or reimbursements) for the actual or estimated costs, as determined by the Production and Marketing Administration, incident to procuring agricultural commodities for such nongovernmental agencies or foreign governments.

(Sept. 21, 1944, ch. 412, title IV, § 402, 58 Stat. 738; Ex. Ord. No. 9577, June 29, 1945, 10 F.R. 4253.)

CODIFICATION

This section was enacted as a part of the Department of Agriculture Organic Act of 1944.

Section was formerly classified to section 569 of Title 5 prior to the general revision and enactment of Title 5, Government Organization and Employees, by Pub. L. 89-554, § 1, Sept. 6, 1966, 80 Stat. 378.

TRANSFER OF FUNCTIONS

The Production and Marketing Administration functions were transferred to other units in the Department of Agriculture under Secretary's memorandum 1320, supp. 4, of Nov. 2, 1953.

All functions of all officers, agencies and employees of the Department of Agriculture were transferred, with certain exceptions, to the Secretary of Agriculture by 1953 Reorg. Plan No. 2, § 1, eff. June 4, 1953, 18 F.R. 3219, 67 Stat. 633, set out as a note under section 2201 of this title.

The War Food Administration was terminated by Ex. Ord. No. 9577, and all functions were transferred to the Secretary of Agriculture, who established the Production and Marketing Administration, under the authority of said Ex. Ord. No. 9577, to administer the functions of many of the marketing and production agencies, including those functions of the former War Food Administration.

§ 2253. Adjustment by Secretary of titles to lands acquired by Government and subject to his control

If the Secretary of Agriculture shall find after the acquisition by the United States of any land or interest therein which is subject to his administration, custody, or control, other than land acquired by exchange of public domain land or resources, that the title thereto is legally insufficient for the purposes for which such land or interest was acquired and

no consideration therefor has been paid by the United States, or that title or color of title to such land or interest was acquired through mistake, misunderstanding, error, or inadvertence, he is authorized to execute and deliver on behalf of and in the name of the United States to the person from whom the title was acquired or to the person whom he finds entitled thereto a quitclaim deed to such land or interest: *Provided, however,* That if the person to whom such deed is made is the same person from whom the United States acquired title, or his successor in interest, any consideration given by the United States for such land or interest shall be restored or, in lieu thereof, the value equivalent of such consideration as determined by the Secretary of Agriculture shall be paid to the United States; and any consideration or value equivalent so restored or paid shall, so far as is practicable, be restored to the jurisdiction, or deposited to the credit, of the department, agency, appropriation, or fund from which the consideration was transferred or paid at the time of the acquisition of title by the United States.

(July 8, 1943, ch. 197, 57 Stat. 388; Mar. 3, 1952, ch. 72, 66 Stat. 11; Oct. 23, 1962, Pub. L. 87-869, § 2, 76 Stat. 1157.)

CODIFICATION

Section was formerly classified to section 567 of Title 5 prior to the general revision and enactment of Title 5, Government Organization and Employees, by Pub. L. 89-554, § 1, Sept. 6, 1966, 80 Stat. 378.

AMENDMENTS

1962—Pub. L. 87-869 deleted "within twenty years" following "shall find".

1952—Act Mar. 3, 1952, increased period of limitation during which Secretary may adjust land titles from ten to twenty years.

TRANSFER OF FUNCTIONS

All functions of all officers, agencies and employees of the Department of Agriculture were transferred, with certain exceptions, to the Secretary of Agriculture by 1953 Reorg. Plan No. 2, § 1, eff. June 4, 1953, 18 F.R. 3219, 67 Stat. 633, set out as a note under section 2201 of this title.

CROSS REFERENCES

Option to purchase lands, see section 428a of this title.

§ 2254. Operations, maintenance and purchase of aircraft by Agricultural Research Service; construction and repair of buildings

Appropriations for the Agricultural Research Service shall be available for the operation and maintenance of aircraft and the purchase of not to exceed one for replacement only and pursuant to section 2250 of this title for the construction, alteration, and repair of buildings and improvements.

(Pub. L. 94-351, title I, § 101, July 12, 1976, 90 Stat. 852.)

CODIFICATION

Section was formerly classified to section 568a of Title 5 prior to the general revision and enactment of Title 5, Government Organization and Employees, by Pub. L. 89-554, § 1, Sept. 6, 1966, 80 Stat. 378.

SIMILAR PROVISIONS

Section is from the Agriculture and Related Agencies Appropriation Act, 1977, Pub. L. 94-351. Similar provisions were contained in the following acts:

Oct. 21, 1975, Pub. L. 94-122, title I, § 101, 89 Stat. 642, 643.

Dec. 31, 1974, Pub. L. 93-563, title I, § 101, 88 Stat. 1823.

Oct. 24, 1973, Pub. L. 93-135, title I, § 101, 87 Stat. 470.

Aug. 22, 1972, Pub. L. 92-399, title I, § 101, 86 Stat. 593.

Aug. 10, 1971, Pub. L. 92-73, title I, § 101, 85 Stat. 184.

Dec. 22, 1970, Pub. L. 91-566, title I, § 101, 84 Stat. 1480.

Nov. 26, 1969, Pub. L. 91-127, title I, § 101, 83 Stat. 245.

Aug. 8, 1968, Pub. L. 90-463, title I, § 101, 82 Stat. 639.

Oct. 24, 1967, Pub. L. 90-113, title I, § 101, 81 Stat. 320.

Sept. 7, 1966, Pub. L. 89-556, title I, § 101, 80 Stat. 689.

Nov. 2, 1965, Pub. L. 89-316, title I, § 101, 79 Stat. 1165.

Sept. 2, 1964, Pub. L. 88-573, title I, § 101, 78 Stat. 862.

Dec. 30, 1963, Pub. L. 88-250, title I, § 101, 77 Stat. 820.

Oct. 24, 1962, Pub. L. 87-879, title I, § 101, 76 Stat. 1203.

July 26, 1961, Pub. L. 87-112, title I, § 101, 75 Stat. 226.

June 29, 1960, Pub. L. 86-532, title I, § 101, 74 Stat. 232.

July 8, 1959, Pub. L. 86-80, title I, § 101, 73 Stat. 167.

June 13, 1958, Pub. L. 85-459, title I, § 101, 72 Stat. 188.

Aug. 2, 1957, Pub. L. 85-118, title I, § 101, 71 Stat. 329.

June 4, 1956, ch. 355, title I, § 101, 70 Stat. 229.

May 23, 1955, ch. 43, title I, § 101, 69 Stat. 51.

June 29, 1954, ch. 409, title I, § 101, 68 Stat. 304.

July 28, 1953, ch. 251, title I, § 101, 67 Stat. 206.

July 5, 1952, ch. 574, title I, § 101, 66 Stat. 336.

Aug. 31, 1951, ch. 374, title I, § 101, 65 Stat. 226.

Sept. 6, 1950, ch. 896, ch. VI, title I, § 101, 64 Stat. 658.

June 29, 1949, ch. 280, title I, § 101, 63 Stat. 329.

June 19, 1948, ch. 543, § 1, 62 Stat. 513.

July 30, 1947, ch. 356, title I, § 1, 61 Stat. 528.

June 22, 1946, ch. 445, § 1, 60 Stat. 276.

May 5, 1945, ch. 109, § 1, 59 Stat. 142.

§ 2255. Membership in International Wheat Advisory Committee, International Sugar Council, etc.

The Secretary of Agriculture is authorized to expend funds, available for agricultural conservation, adjustment, and land use programs, for the share of the United States as a member of the International Wheat Advisory Committee, the International Sugar Council, or like events or bodies concerned with the objectives of said program, together with traveling and other necessary expenses relating thereto: *Provided,* That expenditures under this authority shall not be made unless provision is made therefor in the applicable appropriation and the cost thereof is not in excess of limitations prescribed therein.

(Sept. 21, 1944, ch. 412, title VII, § 701(a), 58 Stat. 741.)

CODIFICATION

This section was enacted as a part of the Department of Agriculture Organic Act of 1944.

Section was formerly classified to sections 570 and 574 of Title 5 prior to the general revision and enactment of Title 5, Government Organization and Employees, by Pub. L. 89-554, § 1, Sept. 6, 1966, 80 Stat. 378.

TRANSFER OF FUNCTIONS

All functions of all officers, agencies and employees of the Department of Agriculture were transferred, with certain exceptions, to the Secretary of Agriculture by 1953 Reorg. Plan No. 2, § 1, eff. June 4, 1953, 18 F.R. 3219, 67 Stat. 633, set out as a note under section 2201 of this title.

§ 2256. Inspections, analyses, and tests for other Government departments and agencies; reimbursement

The head of any department or independent establishment of the Government requiring inspections, analyses, and tests of food and other products, within the scope of the functions of the Department of Agriculture and which that Department is unable to perform within the limits of its appropriations, may, with the approval of the Secretary, transfer to the Department for direct expenditure such sums as may be necessary for the performance of such work.

(Sept. 21, 1944, ch. 412, title VII, § 702(a), 58 Stat. 741.)

CODIFICATION

This section was enacted as a part of the Department of Agriculture Organic Act of 1944.

Section was formerly classified to section 571 of Title 5 prior to the general revision and enactment of Title 5, Government Organization and Employees, by Pub. L. 89-554, § 1, Sept. 6, 1966, 80 Stat. 378.

§ 2257. Interchangeability of funds for miscellaneous expenses and general expenses

Not to exceed 7 per centum of the amounts appropriated for any fiscal year for the miscellaneous expenses of the work of any bureau, division, or office of the Department of Agriculture shall be available interchangeably for expenditures on the objects included within the general expenses of such bureau, division, or office, but no more than 7 per centum shall be added to any one item of appropriation except in cases of extraordinary emergency.

(Sept. 21, 1944, ch. 412, title VII, § 702(b), 58 Stat. 741.)

CODIFICATION

This section was enacted as a part of the Department of Agriculture Organic Act of 1944.

Section was formerly classified to section 572 of Title 5 prior to the general revision and enactment of Title 5, Government Organization and Employees, by Pub. L. 89-554, § 1, Sept. 6, 1966, 80 Stat. 378.

§ 2258. Purchase of newspapers

The Department of Agriculture is authorized to subscribe for such newspapers as may be necessary to carry out its authorized work: *Provided,* That purchases under this authority shall not be made unless provision is made therefor in the applicable appropriation and the cost thereof is not in excess of limitations prescribed therein.

(Sept. 21, 1944, ch. 412, title VII, § 704, 58 Stat. 742.)

CODIFICATION

This section was enacted as a part of the Department of Agriculture Organic Act of 1944.

Section was formerly classified to section 573 of Title 5 prior to the general revision and enactment of Title 5, Government Organization and Employees, by Pub. L. 89-554, § 1, Sept. 6, 1966, 80 Stat. 378.

§ 2259. Market-inspection certificates as prima facie evidence

Market-inspection certificates issued by authorized agents of the Department of Agriculture shall be received in all courts of the United States as prima facie evidence of the truth of the statements therein contained.

(Sept. 21, 1944, ch. 412, title IV, § 401(c), 58 Stat. 738.)

CODIFICATION

This section was enacted as a part of the Department of Agriculture Organic Act of 1944.

Section was formerly classified to section 575 of Title 5 prior to the general revision and enactment of Title 5, Government Organization and Employees, by Pub. L. 89-554, § 1, Sept. 6, 1966, 80 Stat. 378.

§ 2260. Inspection or quarantine services involving overtime furnished upon a reimbursable basis

The Secretary of Agriculture is authorized to pay employees of the United States Department of Agriculture performing inspection or quarantine services relating to imports into and exports from the United States, for all overtime, night, or holiday work performed by them at any place where such inspection and quarantine services are performed, at such rates as he may determine, and to accept from persons for whom such work is performed reimbursement for any sums paid out by him for such work.

(Aug. 28, 1950, ch. 815, 64 Stat. 561.)

CODIFICATION

Section was formerly classified to section 576 of Title 5 prior to the general revision and enactment of Title 5, Government Organization and Employees, by Pub. L. 89-554, § 1, Sept. 6, 1966, 80 Stat. 378.

§ 2261. Credit of donations and proceeds from exhibitions to appropriations concerned with foreign market development programs

In the conduct of foreign market development programs, the Secretary of Agriculture is authorized to credit contributions from individuals, firms, associations, agencies, and other groups, and the proceeds received from space rentals, and sales of products and materials at exhibitions, to the appropriations charged with the cost of acquiring such space, products, and materials.

(Pub. L. 87-128, title II, § 203, Aug. 8, 1961, 75 Stat. 307.)

CODIFICATION

Section was formerly classified to section 577 of Title 5 prior to the general revision and enactment of Title 5, Government Organization and Employees, by Pub. L. 89-554, § 1, Sept. 6, 1966, 80 Stat. 378.

§ 2262. Employee liability insurance on motor vehicles in foreign countries

The Secretary of Agriculture is authorized to obtain insurance to cover the liability of any employee of the Department of Agriculture for damage to or loss of property or personal injury or death caused by the act or omission of any such employee while acting within the scope of his office or employment and while operating a motor vehicle belonging to the United States in a foreign country.

(Pub. L. 89-106, § 3, Aug. 4, 1965, 79 Stat. 431.)

CODIFICATION

Section was formerly classified to section 578 of Title 5 prior to the general revision and enactment of Title 5, Government Organization and Employees, by Pub. L. 89-554, § 1, Sept. 6, 1966, 80 Stat. 378.

§ 2263. Transfer of funds

Subject to limitations applicable with respect to each appropriation concerned, each appropriation available to the Department of Agriculture may be charged, at any time during a fiscal year, for the benefit of any other appropriation available to the Department, for the purpose of financing the procurement of materials and services, or financing activities or other costs, for which funds are available both in the financing appropriation so charged and in the appropriation so benefited; except that such expenses so financed shall be charged on a final basis, as of a date not later than the close of such fiscal year, to the appropriations so benefited, with appropriate credit to the financing appropriation.

(Pub. L. 89-106, § 8, Aug. 4, 1965, 79 Stat. 432.)

CODIFICATION

Section was formerly classified to section 579 of Title 5 prior to the general revision and enactment of Title 5, Government Organization and Employees, by Pub. L. 89-554, § 1, Sept. 6, 1966, 80 Stat. 378.

§ 2264. National Agricultural Library; acceptance of gifts, bequests, or devises; conditional gifts

The Secretary of Agriculture is hereby authorized to accept, receive, hold, and administer on behalf of the United States gifts, bequests, or devises of real and personal property made unconditionally for the benefit of the National Agricultural Library or for the carrying out of any of its functions. Conditional gifts may be accepted and used in accordance with their provisions provided that no gift may be accepted which is conditioned on any expenditure not to be met therefrom or from the income thereof unless such expenditure has been approved by Act of Congress.

(Pub. L. 91-591, § 2, Dec. 28, 1970, 84 Stat. 1588.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2265 of this title.

§ 2265. Deposit of money accepted for benefit of National Agricultural Library; disbursement

Any gift of money accepted pursuant to the authority granted in section 2264 of this title, or the net proceeds from the liquidation of any other property so accepted, or the proceeds of any insurance on any gift property not used for its restoration shall be deposited in the Treasury of the United States for credit to a separate account and shall be disbursed upon order of the Secretary of Agriculture.

(Pub. L. 91-591, § 3, Dec. 28, 1970, 84 Stat. 1588.)

CHAPTER 56—UNFAIR TRADE PRACTICES AFFECTING PRODUCERS OF AGRICULTURAL PRODUCTS

Sec.

2301. Congressional findings and declaration of policy.
2302. Definitions.
2303. Prohibited practices.
2304. Disclaimer of intention to prohibit normal dealing.
2305. Enforcement provisions.
(a) Civil actions by persons aggrieved; preventive relief; attorneys' fees; security.
(b) Civil actions by Attorney General; federal jurisdiction; complaint; preventive relief.
(c) Suits by persons injured; federal jurisdiction; amount of recovery; attorneys' fees; limitation of actions.
(d) Federal jurisdiction; exhaustion of other remedies; State laws and jurisdiction unaffected.
2306. Separability of provisions.

§ 2301. Congressional findings and declaration of policy

Agricultural products are produced in the United States by many individual farmers and ranchers scattered throughout the various States of the Nation. Such products in fresh or processed form move in large part in the channels of interstate and foreign commerce, and such products which do not move in these channels directly burden or affect interstate commerce. The efficient production and marketing of agricultural products by farmers and ranchers is of vital concern to their welfare and to the general economy of the Nation. Because agricultural products are produced by numerous individual farmers, the marketing and bargaining position of individual farmers will be adversely affected unless they are free to join together voluntarily in cooperative organizations as authorized by law. Interference with this right is contrary to the public interest and adversely affects the free and orderly flow of goods in interstate and foreign commerce.

It is, therefore, declared to be the policy of Congress and the purpose of this chapter to establish standards of fair practices required of handlers in their dealings in agricultural products.

(Pub. L. 90-288, § 2, Apr. 16, 1968, 82 Stat. 93.)

SHORT TITLE

Section 1 of Pub. L. 90-288 provided that: "This Act [enacting this chapter] shall be known as the 'Agricultural Fair Practices Act of 1967'."

§ 2302. Definitions

When used in this chapter—

(a) The term "handler" means any person engaged in the business or practice of (1) acquiring agricultural products from producers or associations of producers for processing or sale; or (2) grading, packaging, handling, storing, or

processing agricultural products received from producers or associations of producers; or (3) contracting or negotiating contracts or other arrangements, written or oral, with or on behalf of producers or associations of producers with respect to the production or marketing of any agricultural product; or (4) acting as an agent or broker for a handler in the performance of any function or act specified in clause (1), (2), or (3) of this paragraph.

(b) The term "producer" means a person engaged in the production of agricultural products as a farmer, planter, rancher, dairyman, fruit, vegetable, or nut grower.

(c) The term "association of producers" means any association of producers of agricultural products engaged in marketing, bargaining, shipping, or processing as defined in section 1141j(a) of title 12, or in section 291 of this title.

(d) The term "person" includes individuals, partnerships, corporations, and associations.

(e) The term "agricultural products" shall not include cotton or tobacco or their products.

(Pub. L. 90-288, § 3, Apr. 16, 1968, 82 Stat. 94.)

§ 2303. Prohibited practices

It shall be unlawful for any handler knowingly to engage or permit any employee or agent to engage in the following practices:

(a) To coerce any producer in the exercise of his right to join and belong to or to refrain from joining or belonging to an association of producers, or to refuse to deal with any producer because of the exercise of his right to join and belong to such an association; or

(b) To discriminate against any producer with respect to price, quantity, quality, or other terms of purchase, acquisition, or other handling of agricultural products because of his membership in or contract with an association of producers; or

(c) To coerce or intimidate any producer to enter into, maintain, breach, cancel, or terminate a membership agreement or marketing contract with an association of producers or a contract with a handler; or

(d) To pay or loan money, give any thing of value, or offer any other inducement or reward to a producer for refusing to or ceasing to belong to an association of producers; or

(e) To make false reports about the finances, management, or activities of associations of producers or handlers; or

(f) To conspire, combine, agree, or arrange with any other person to do, or aid or abet the doing of, any act made unlawful by this chapter.

(Pub. L. 90-288, § 4, Apr. 16, 1968, 82 Stat. 94.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2305 of this title.

§ 2304. Disclaimer of intention to prohibit normal dealing

Nothing in this chapter shall prevent handlers and producers from selecting their customers and suppliers for any reason other than a producer's membership in or contract with an association of producers, nor require a handler to deal with an association of producers.

(Pub. L. 90-288, § 5, Apr. 16, 1968, 82 Stat. 95.)

§ 2305. Enforcement provisions

(a) Civil actions by persons aggrieved; preventive relief; attorneys' fees; security

Whenever any handler has engaged or there are reasonable grounds to believe that any handler is about to engage in any act or practice prohibited by section 2303 of this title, a civil action for preventive relief, including an application for a permanent or temporary injunction, restraining order, or other order, may be instituted by the person aggrieved. In any action commenced pursuant hereto, the court, in its discretion, may allow the prevailing party a reasonable attorney's fee as part of the costs. The court may provide that no restraining order or preliminary injunction shall issue except upon the giving of security by the applicant, in such sum as the court deems proper, for the payment of such costs and damages as may be incurred or suffered by any party who is found to have been wrongfully enjoined or restrained.

(b) Civil actions by Attorney General; federal jurisdiction; complaint; preventive relief

Whenever the Secretary of Agriculture has reasonable cause to believe that any handler, or group of handlers, has engaged in any act or practice prohibited by section 2303 of this title, he may request the Attorney General to bring civil action in his behalf in the appropriate district court of the United States by filing with it a complaint (1) setting forth facts pertaining to such act or practice, and (2) requesting such preventive relief, including an application for a permanent or temporary injunction, restraining order, or other order against the handler, or handlers, responsible for such acts or practices. Upon receipt of such request, the Attorney General is authorized to file such complaint.

(c) Suits by persons injured; federal jurisdiction; amount of recovery; attorneys' fees; limitation of actions

Any person injured in his business or property by reason of any violation of, or combination or conspiracy to violate, any provision of section 2303 of this title may sue therefor in the appropriate district court of the United States without respect to the amount in controversy, and shall recover damages sustained. In any action commenced pursuant to this subsection, the court may allow the prevailing party a reasonable attorney's fee as a part of the costs. Any action to enforce any cause of action under this subsection shall be forever barred unless commenced within two years after the cause of action accrued.

(d) Federal jurisdiction; exhaustion of other remedies; State laws and jurisdiction unaffected

The district courts of the United States shall have jurisdiction of proceedings instituted pursuant to this section and shall exercise the same without regard to whether the aggrieved party shall have exhausted any administrative or other remedies that may be provided by law.

The provisions of this chapter shall not be construed to change or modify existing State

law nor to deprive the proper State courts of jurisdiction.

(Pub. L. 90-288, § 6, Apr. 16, 1968, 82 Stat. 95.)

§ 2306. Separability of provisions

If any provision of this chapter or the application thereof to any person or circumstances is held invalid, the validity of the remainder of the chapter and of the application of such provision to other persons and circumstances shall not be affected thereby.

(Pub. L. 90-288, § 7, Apr. 16, 1968, 82 Stat. 95.)

CHAPTER 57—PLANT VARIETY PROTECTION

SUBCHAPTER I—PLANT VARIETY PROTECTION OFFICE

PART A—ORGANIZATION AND PUBLICATIONS

Sec.
2321. Establishment.
2322. Seal.
2323. Organization.
2324. Restrictions on employees as to interest in plant variety protection.
2325. Bond of employees.
2326. Regulations.
2327. Plant Variety Protection Board.
(a) Appointment.
(b) Functions of Board.
(c) Compensation of Board.
2328. Library.
2329. Register of protected plant varieties.
2330. Publications.
2331. Copies for public libraries.

PART B—LEGAL PROVISIONS AS TO THE PLANT VARIETY PROTECTION OFFICE

2351. Day for taking action falling on Saturday, Sunday, or holiday.
2352. Form of papers filed.
2353. Testimony in Plant Variety Protection Office cases.
2354. Subpoenas; witnesses.
2355. Effect of defective execution.
2356. Regulations for practice before the Office.
2357. Unauthorized practice.

PART C—PLANT VARIETY PROTECTION FEES

2371. Plant variety protection fees; appropriations.
2372. Payment of plant variety protection fees; return of excess amounts.

SUBCHAPTER II—PROTECTABILITY OF PLANT VARIETIES AND CERTIFICATES OF PROTECTION

PART D—PROTECTABILITY OF PLANT VARIETIES

2401. Definitions and rules of construction.
2402. Right to plant variety protection; plant varieties protectable.
2403. Reciprocity limits.
2404. Public interest in wide usage.

PART E—APPLICATIONS; FORM; WHO MAY FILE; RELATING BACK; CONFIDENTIALITY

2421. Application for recognition of plant variety rights.
2422. Content of application.
2423. Joint breeders.
2424. Death or incapacity of breeder.
2425. Benefit of earlier filing date.
2426. Confidential status of application.
2427. Publication.

PART F—EXAMINATIONS; RESPONSE TIME; INITIAL APPEALS

2441. Examination of application.
2442. Notice of refusal; reconsideration.
2443. Initial appeal.

PART G—APPEALS TO COURTS AND OTHER REVIEW

2461. Appeals.
2462. Civil action against Secretary.
2463. Appeal or civil action in contested cases.

PART H—CERTIFICATES OF PLANT VARIETY PROTECTION

2481. Plant variety protection.
2482. How issued.
2483. Contents and term of plant variety protection.
2484. Certificate of correction of Plant Variety Protection Office mistake.
2485. Certificate of correction of applicant's mistake.
2486. Correction of named breeder.

PART I—REEXAMINATION AFTER ISSUE, AND CONTESTED PROCEEDINGS

2501. Reexamination after issue.
2502. Priority contest.
2503. Effect of adverse final judgment or of nonaction.
2504. Interfering plant variety protection.

SUBCHAPTER III—PLANT VARIETY PROTECTION AND RIGHTS

PART J—OWNERSHIP AND ASSIGNMENT

2531. Ownership and assignment.
2532. Ownership during testing.

PART K—INFRINGEMENT OF PLANT VARIETY PROTECTION

2541. Infringement of plant variety protection.
2542. Grandfather clause.
2543. Right to save seed; crop exemption.
2544. Research exemption.
2545. Intermediary exemption.

PART L—REMEDIES FOR INFRINGEMENT OF PLANT VARIETY PROTECTION, AND OTHER ACTIONS

2561. Remedy for infringement of plant variety protection.
2562. Presumption of validity; defenses.
2563. Injunction.
2564. Damages.
2565. Attorney fees.
2566. Time limitation on damages.
2567. Limitation of damages; marking and notice.
2568. False marking; cease and desist orders.
2569. Nonresident proprietors; service and notice.

PART M—INTENT AND SEVERABILITY

2581. Intent.
2582. Severability.
2583. Exempted plants.

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in sections 1562, 1611 of this title.

SUBCHAPTER I—PLANT VARIETY PROTECTION OFFICE

PART A—ORGANIZATION AND PUBLICATIONS

§ 2321. Establishment

There is hereby established in the Department of Agriculture a bureau to be known as the Plant Variety Protection Office, which shall have the functions set forth in this chapter.

(Pub. L. 91-577, title I, § 1, Dec. 24, 1970, 84 Stat. 1542.)

EFFECTIVE DATE

Section 141 of Pub. L. 91-577 provided that: "This Act [this chapter] shall take effect upon enactment [Dec. 24, 1970]. Applications may be filed with the Secretary and held by him until the Office of Plant Variety Protection is organized and in operation".

SHORT TITLE

Section 145 of Pub. L. 91-577 provided that: "This Act [enacting this chapter, section 1611 of this title, and sections 1545 and 2353 of Title 28, Judiciary and Judicial Procedure, amending section 1562 of this title and sections 1338 and 1498 of Title 28, and enacting provisions set out as notes under this section] may be cited as the 'Plant Variety Protection Act'."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 28 section 1545.

§ 2322. Seal

The Plant Variety Protection Office shall have a seal with which documents and certificates evidencing plant variety protection shall be authenticated.

(Pub. L. 91-577, title I, § 2, Dec. 24, 1970, 84 Stat. 1542.)

§ 2323. Organization

The organization of the Plant Variety Protection Office shall, except as provided herein, be determined by the Secretary of Agriculture (hereinafter called the Secretary). The office shall devote itself substantially exclusively to the administration of this chapter.

(Pub. L. 91-577, title I, § 3, Dec. 24, 1970, 84 Stat. 1542.)

§ 2324. Restrictions on employees as to interest in plant variety protection

Employees of the Plant Variety Protection Office shall be ineligible during the periods of their employment, to apply for plant variety protection and to acquire directly or indirectly, except by inheritance or bequest, any right or interest in any matters before that office. This section shall not apply to members of the Plant Variety Protection Board who are not otherwise employees of the Plant Variety Protection Office.

(Pub. L. 91-577, title I, § 4, Dec. 24, 1970, 84 Stat. 1542.)

§ 2325. Bond of employees

Such employees as the Secretary designates, before entering upon their duties, shall severally give bond, with sureties, in sums prescribed by the Secretary, conditioned for the faithful discharge of their respective duties and that they shall render to the proper officers of the Treasury a true account of all money received by virtue of their offices.

(Pub. L. 91-577, title I, § 5, Dec. 24, 1970, 84 Stat. 1542.)

§ 2326. Regulations

The Secretary may establish regulations, not inconsistent with law, for the conduct of proceedings in the Plant Variety Protection Office after consultations with the Plant Variety Protection Board.

(Pub. L. 91-577, title I, § 6, Dec. 24, 1970, 84 Stat. 1542.)

§ 2327. Plant Variety Protection Board

(a) Appointment

The Secretary shall appoint a Plant Variety Protection Board. The Board shall consist of individuals who are experts in various areas of varietal development covered by this chapter. Membership of the Board shall include farmer representation and shall be drawn approximately equally from the private or seed industry sector and from the sector of government or the public. The Secretary or his designee shall act as chairman of the Board without voting rights except in the case of ties.

(b) Functions of Board

The functions of the Plant Variety Protection Board shall include:

(1) Advising the Secretary concerning the adoption of Rules and Regulations to facilitate the proper administration of this chapter;

(2) Making advisory decisions on all appeals from the examiner. The Board shall determine whether to act as a full Board or by panels it selects; and whether to review advisory decisions made by a panel. For service on such appeals, the Board may select, as temporary members, experts in the area to which the particular appeal relates; and

(3) Advising the Secretary on all questions under section 2404 of this title.

(c) Compensation of Board

The members of the Plant Variety Protection Board shall serve without compensation except for standard government reimbursable expenses.

(Pub. L. 91-577, title I, § 7, Dec. 24, 1970, 84 Stat. 1543.)

§ 2328. Library

The Secretary shall maintain a library of scientific and other works and periodicals, both foreign and domestic, in the Plant Variety Protection Office to aid the officers in the discharge of their duties.

(Pub. L. 91-577, title I, § 8, Dec. 24, 1970, 84 Stat. 1543.)

§ 2329. Register of protected plant varieties

The Secretary shall maintain a register of published specifications of United States protected plant varieties and a file of such other scientific and technical information as may be necessary or practicable.

(Pub. L. 91-577, title I, § 9, Dec. 24, 1970, 84 Stat. 1543.)

§ 2330. Publications

(a) The Secretary may publish, or cause to be published, in such format as he shall determine to be suitable, the following:

(1) The specifications for plant variety protection including drawings and photographs.

(2) The Official Journal of the Plant Variety Protection Office, including annual indices.

(3) Pamphlet copies of the plant variety protection laws and rules of practice and circulars or other publications relating to the business of the Office.

(b) The Plant Variety Protection Office may print the heading of the drawings or photographs for protected plant varieties for the purpose of photolithography and may provide suitable copy for any lithography to appear on the same page.

(c) The Secretary may (1) establish public facilities for the searching of plant variety protection records and materials, and (2) from time to time, as through an information service, disseminate to the public those portions of the technological and other public information available to or within the Plant Variety Protection Office to encourage innovation and promote the progress of the useful arts.

(d) The Secretary may exchange any of the publications specified for publications desirable for the use of the Plant Variety Protection Office. The Secretary may exchange copies of specifications, drawings, and photographs of United States protected plant varieties for copies of specifications, drawings, and photographs of applications and protected plant varieties of foreign countries.

(Pub. L. 91-577, title I, § 10, Dec. 24, 1970, 84 Stat. 1543.)

§ 2331. Copies for public libraries

The Secretary may supply printed copies of specifications, drawings, and photographs of protected plant varieties to public libraries in the United States which shall maintain such copies for the use of the public.

(Pub. L. 91-577, title I, § 11, Dec. 24, 1970, 84 Stat. 1544.)

PART B—LEGAL PROVISIONS AS TO THE PLANT VARIETY PROTECTION OFFICE

§ 2351. Day for taking action falling on Saturday, Sunday, or holiday

When the day, or the last day, for taking any action or paying any fee in the United States Plant Variety Protection Office falls on Saturday, Sunday, a holiday within the District of Columbia, or on any other day the Plant Variety Protection Office is closed for the receipt of papers, the action may be taken or the fee paid, on the next succeeding business day.

(Pub. L. 91-577, title I, § 21, Dec. 24, 1970, 84 Stat. 1544.)

§ 2352. Form of papers filed

The Secretary may by regulations prescribe the form of papers to be filed in the Plant Variety Protection Office.

(Pub. L. 91-577, title I, § 22, Dec. 24, 1970, 84 Stat. 1544.)

§ 2353. Testimony in Plant Variety Protection Office cases

The Secretary may establish regulations for taking affidavits, depositions, and other evidence required in cases before the Plant Variety Protection Office. Any officer authorized by law to take depositions to be used in the courts of the United States, or of the State where he resides, may take such affidavits and depositions, and swear the witnesses. If any person acts as a hearing officer by authority of the Secretary, he shall have like power.

(Pub. L. 91-577, title I, § 23, Dec. 24, 1970, 84 Stat. 1544.)

§ 2354. Subpoenas; witnesses

(a) The clerk of any United States court for the district wherein testimony is to be taken in accordance with regulations established by the Secretary for use in any contested case in the Plant Variety Protection Office shall, upon the application of any party thereof, issue a subpoena for any witness residing or being within such district or within one hundred miles of the stated place in such district, commanding him to appear and testify before an officer in such district authorized to take depositions and affidavits, at the time and place stated in the subpoena. The provisions of the Federal Rules of Civil Procedure relating to the attendance of witnesses and the production of documents and things shall apply to contested cases in the Plant Variety Protection Office insofar as consistent with such regulations.

(b) Every witness subpoenaed or testifying shall be allowed the fees and traveling expenses allowed to witnesses attending the United States district courts.

(c) A judge of a court whose clerk issued a subpoena may enforce obedience to the process or punish disobedience as in other like cases, on proof that a witness, served with such subpoena, neglected or refused to appear or to testify. No witness shall be deemed guilty of contempt for disobeying such subpoena unless his fees and traveling expenses in going to, and returning from, one day's attendance at the place of examination, are paid or tendered him at the time of the service of the subpoena; nor for refusing to disclose any secret matter except upon appropriate order of the court which issued the subpoena or of the Secretary.

(Pub. L. 91-577, title I, § 24, Dec. 24, 1970, 84 Stat. 1544.)

FEDERAL RULES OF CIVIL PROCEDURE

Subpoena, see rule 45, Title 28, Appendix, Judiciary and Judicial Procedure.

§ 2355. Effect of defective execution

Any document to be filed in the Plant Variety Protection Office and which is required by any law or regulation to be executed in a specified manner may be provisionally accepted by the Secretary despite a defective execution, provided a properly executed document is submitted within such time as may be prescribed.

(Pub. L. 91-577, title I, § 25, Dec. 24, 1970, 84 Stat. 1545.)

§ 2356. Regulations for practice before the Office

The Secretary shall prescribe regulations governing the admission to practice and conduct of persons representing applicants or other parties before the Plant Variety Protection Office. The Secretary may, after notice and opportunity for a hearing, suspend or exclude, either generally

or in any particular case, from further practice before the Office of Plant Variety Protection any person shown to be incompetent or disreputable or guilty of gross misconduct.

(Pub. L. 91-577, title I, § 26, Dec. 24, 1970 84 Stat. 1545.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2357 of this title.

§ 2357. Unauthorized practice

Anyone who in the United States engages in direct or indirect practice before the Office of Plant Variety Protection while suspended or excluded under section 2356 of this title, or without being admitted to practice before the Office, shall be liable in a civil action for the return of all money received, and for compensation for damage done by such person and also may be enjoined from such practice. However, there shall be no liability for damage if such person establishes that the work was done competently and without negligence. This section does not apply to anyone who, without a claim of self-sufficiency, works under the supervision of another who stands admitted and is the responsible party; or to anyone who establishes that he acted only on behalf of any employer by whom he was regularly employed.

(Pub. L. 91-577, title I, § 27, Dec. 24, 1970, 84 Stat. 1545.)

PART C—PLANT VARIETY PROTECTION FEES

§ 2371. Plant variety protection fees; appropriations

The Secretary shall, under such regulations as he may prescribe, charge and collect reasonable fees for services performed under this chapter. The fees authorized shall be recovered to the Treasury of the United States of America, and expenses needed for the administration of this chapter shall come through the Nation's regular budgetary, authorization, and appropriations process. The initial capital of the fund shall consist of appropriations, which are hereby authorized to be made. Until such time as the Secretary prescribes fees as provided by this section, a fee of $50 shall be charged for filing each application, subject to such adjustment as may be appropriate after fees are prescribed by the Secretary hereunder.

(Pub. L. 91-577, title I, § 31, Dec. 24, 1970, 84 Stat. 1545.)

§ 2372. Payment of plant variety protection fees; return of excess amounts

All fees shall be paid to the Secretary, and the Secretary may refund any sum paid by mistake or in excess of the fee required.

(Pub. L. 91-577, title I, § 32, Dec. 24, 1970, 84 Stat. 1545.)

SUBCHAPTER II—PROTECTABILITY OF PLANT VARIETIES AND CERTIFICATES OF PROTECTION

PART D—PROTECTABILITY OF PLANT VARIETIES

§ 2401. Definitions and rules of construction

The definitions and rules of construction set forth in this section apply for the purposes of this chapter.

(a) The term "novel variety" may be represented by, without limitation, seed, transplants, and plants, and is satisfied if there is:

(1) Distinctness in the sense that the variety clearly differs by one or more identifiable morphological, physiological or other characteristics (which may include those evidenced by processing or product characteristics, for example, milling and baking characteristics in the case of wheat) as to which a differenec [1] in genealogy may contribute evidence, from all prior varieties of public knowledge at the date of determination within the provisions of section 2402 of this title; and

(2) Uniformity in the sense that any variations are describable, predictable and commercially acceptable; and

(3) Stability in the sense that the variety, when sexually reproduced or reconstituted, will remain unchanged with regard to its essential and distinctive characteristics with a reasonable degree of reliability commensurate with that of varieties of the same category in which the same breeding method is employed.

(b) The terms "United States" and "this country" means the United States of America, its territories and possessions, and the Commonwealth of Puerto Rico.

(c) The term "kind" means one or more related species or subspecies singly or collectively known by one common name, for example, soybean, flax, or radish.

(d) The term "date of determination" means the date when there has been at least tentative determination that the variety has been sexually reproduced with recognized characteristics, whether or not the novelty of those characteristics has been determined.

(e) The term "breeder" shall mean the person who—

(1) directs the final breeding creating the novel variety, or

(2) discovers the novel variety, and

makes the tentative determination described in subsection (d) of this section. Where such actions are conducted by an agent on behalf of his principal, the principal, rather than the agent, shall be considered the breeder. The terms "breed", "develop", "originate", and "discover", and derivatives thereof shall each include the other.

(f) The term "sexually reproduced" shall include any production of a variety by seed.

(g) The term "basic seed" means the seed planted to produce certified or commercial seed.

(h) The term "testing" means testing or experimental use of a variety before any sale thereof. Sale for other than seed purposes of seed or other plant material produced as the

[1] So in original.

result of testing shall not constitute a sale for the purpose of the preceding sentence or for the purpose of the following subsection.

(i) The term "public variety" means a variety sold or used in this country, or existing in and publicly known in this country; but use for the purpose of testing, or sale or use as individual plants not known to be sexually reproducible, shall not make the variety a public variety.

(j) A variety described in a publication as specified in section 2402(a)(1)(B) of this title is "effectively available to workers in this country" if a source from which it can be purchased is indicated in such publication or readily determinable or if such publication teaches how to produce the variety from source-material effectively available to workers in this country.

(Pub. L. 91-577, title II, § 41, Dec. 24, 1970, 84 Stat. 1546.)

§ 2402. Right to plant variety protection; plant varieties protectable

(a) The breeder of any novel variety of sexually reproduced plant (other than fungi, bacteria, or first generation hybrids) who has so reproduced the variety, or his successor in interest, shall be entitled to plant variety protection therefor, subject to the conditions and requirements of this subchapter unless one of the following bars exists:

(1) Before the date of determination thereof by the breeder, or more than one year before the effective filing date of the application therefor, the variety was (A) a public variety in this country, or (B) effectively available to workers in this country and adequately described by a publication reasonably deemed a part of the public technical knowledge in this country which description must include a disclosure of the principal characteristics by which the variety is distinguished.

(2) An application for protection of the variety based on the same breeder's acts, was filed in a foreign country by the owner or his privies more than one year before the effective filing date of the application filed in the United States.

(3) Another is entitled to an earlier date of determination for the same variety and such other (A) has a certificate of plant variety protection hereunder or (B) has been engaged in a continuing program of development and testing to commercialization, or (C) has within six months after such earlier date of determination adequately described the variety by a publication reasonably deemed a part of the public technical knowledge in this country which description must include a disclosure of the principal characteristics by which the variety is distinguished.

(b) The Secretary may, by regulation, extend for a reasonable period of time the one year time period provided in subsection (a) of this section for filing applications, and may in that event provide for at least commensurate reduction of the term of protection.

(Pub. L. 91-577, title II, § 42, Dec. 24, 1970, 84 Stat. 1547.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2401, 2562 of this title.

§ 2403. Reciprocity limits

Protection under this chapter may, by regulation, be limited to nationals of the United States, except where this limitation would violate a treaty and except that nationals of a foreign state in which they are domiciled shall be entitled to so much of the protection here afforded as is afforded by said foreign state to nationals of the United States for the same genus and species.

(Pub. L. 91-577, title II, § 43, Dec. 24, 1970, 84 Stat. 1547.)

§ 2404. Public interest in wide usage

The Secretary may declare a protected variety open to use on a basis of equitable remuneration to the owner, not less than a reasonable royalty, when he determines that such declaration is necessary in order to insure an adequate supply of fiber, food, or feed in this country and that the owner is unwilling or unable to supply the public needs for the variety at a price which may reasonably be deemed fair. Such declaration may be, with or without limitation, with or without designation of what the remuneration is to be; and shall be subject to review as under section 2461 or 2462 of this title (any finding that the price is not reasonable being reviewable), and shall remain in effect not more than two years. In the event litigation is required to collect such remuneration, a higher rate may be allowed by the court.

(Pub. L. 91-577, title II, § 44, Dec. 24, 1970, 84 Stat. 1547.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2327, 2461 of this title.

PART E—APPLICATIONS; FORM; WHO MAY FILE; RELATING BACK; CONFIDENTIALITY

§ 2421. Application for recognition of plant variety rights

(a) An application for a certificate of Plant Variety Protection may be filed by the owner of the variety sought to be protected. The application shall be made in writing to the Secretary, shall be signed by or on behalf of the applicant, and shall be accompanied by the prescribed fee.

(b) An error as to the naming of the breeder, without deceptive intent, may be corrected at any time, in accordance with regulations established by the Secretary.

(Pub. L. 91-577, title II, § 51, Dec. 24, 1970, 84 Stat. 1548.)

§ 2422. Content of application

An application for a certificate recognizing plant variety rights shall contain:

(1) The name of the variety except that a temporary designation will suffice until the certificate is to be issued.

(2) A description of the variety setting forth its novelty and a description of the genealogy and breeding procedure, when known. The

Secretary may require amplification, including the submission of adequate photographs or drawings or plant specimens, if the description is not adequate or as complete as is reasonably possible, and submission of records or proof of ownership or of allegations made in the application. An applicant may add to or correct the description at any time, before the certificate is issued, upon a showing acceptable to the Secretary that the revised description is retroactively accurate. Courts shall protect others from any injustice which would result. The Secretary may accept records of the breeder and of any official seed certifying agency in this country as evidence of stability where applicable.

(3) A declaration that a viable sample of basic seed necessary for propagation of the variety will be deposited and replenished periodically in a public repository in accordance with regulations to be established hereunder. This declaration may be added by amendment.

(4) A statement of the basis of applicant's ownership.

(Pub. L. 91-577, title II, § 52, Dec. 24, 1970, 84 Stat. 1548.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2481, 2562 of this title.

§ 2423. Joint breeders

(a) When two or more persons are the breeders, one (or his successor) may apply, naming the others.

(b) The Secretary, after such notice as he may prescribe, may issue a certificate of plant variety protection to the applicant and such of the other breeders (or their successors in interest) as may have subsequently joined in the application.

(Pub. L. 91-577, title II, § 53, Dec. 24, 1970, 84 Stat. 1548.)

§ 2424. Death or incapacity of breeder

Legal representatives of deceased breeders and of those under legal incapacity may make application for plant variety protection upon compliance with the requirements and on the same terms and conditions applicable to the breeder or his successor in interest.

(Pub. L. 91-577, title II, § 54, Dec. 24, 1970, 84 Stat. 1548.)

§ 2425. Benefit of earlier filing date

(a) An application for a certificate of plant variety protection filed in this country based on the same variety, and on rights derived from the same breeder, on which there has previously been filed an application for plant variety protection in a foreign country which affords similar privileges in the case of applications filed in the United States by nationals of the United States, shall have the same effect as the same application would have if filed in the United States on the date on which the application for plant variety protection for the same variety was first filed in such foreign country, if the application in this country is filed within twelve months from the earliest date on which such foreign application was filed. No application shall be entitled to a right of priority under this section, unless the applicant designates the foreign application in his application or by amendment thereto and, if required by the Secretary, furnishes such copy, translation or both, as the Secretary may specify.

(b) An application for a certificate of plant variety protection for the same variety as was the subject of an application previously filed in the United States by or on behalf of the same person, or by his predecessor in title, shall have the same effect as to such variety as though filed on the date of the prior application if filed before the issuance of the certificate or other termination of proceedings on the first application or on an application similarly entitled to the benefit of the filing date of the first application and if it contains or is amended to contain a specific reference to the earlier filed application.

(c) A later application shall not by itself establish that a characteristic newly described was in the variety at the time of the earlier application.

(Pub. L. 91-577, title II, § 55, Dec. 24, 1970, 84 Stat. 1548.)

§ 2426. Confidential status of application

Applications for plant variety protection and their contents shall be kept in confidence by the Plant Variety Protection Office, by the Board, and by the offices in the Department of Agriculture to which access may be given under regulations. No information concerning the same shall be given without the authority of the owner, unless necessary under special circumstances as may be determined by the Secretary, except that the Secretary may publish the variety names designated in applications, stating the kind to which each applies.

(Pub. L. 91-577, title II, § 56, Dec. 24, 1970, 84 Stat. 1549.)

§ 2427. Publication

The Secretary may establish regulations for the publication of any pending application when publication is requested by the owner.

(Pub. L. 91-577, title II, § 57, Dec. 24, 1970, 84 Stat. 1549.)

PART F—EXAMINATIONS; RESPONSE TIME; INITIAL APPEALS

§ 2441. Examination of application

The Secretary shall cause an examination to be made of the application and if on such examination it is determined that the applicant is entitled to plant variety protection under the law, the Secretary shall issue a notice of allowance of plant variety protection therefor as hereinafter provided.

(Pub. L. 91-577, title II, § 61, Dec. 24, 1970, 84 Stat. 1549.)

§ 2442. Notice of refusal; reconsideration

(a) Whenever an application is refused, or any objection or requirement made by the examiner, the Secretary shall notify the applicant

thereof, stating the reasons therefor, together with such information and references as may be useful in judging the propriety of continuing the prosecution of the application; and if after receiving such notice the applicant requests reconsideration, with or without amendment, the application shall be reconsidered.

(b) For taking appropriate action after the mailing to him of an action other than allowance, an applicant shall be allowed six months, or such other time as the Secretary in exceptional circumstances shall set in the refusal, or such time as he may allow as an extension. Without such extension, action may be taken up to three months late by paying an additional fee to be prescribed by the Secretary.

(Pub. L. 91-577, title II, § 62, Dec. 24, 1970, 84 Stat. 1549.)

§ 2443. Initial appeal

When an application for plant variety protection has been refused by the Plant Variety Protection Office, the applicant may appeal to the Secretary. The Secretary shall seek the advice of the Plant Variety Protection Board on all appeals, before deciding the appeal.

(Pub. L. 91-577, title II, § 63, Dec. 24, 1970, 84 Stat. 1550.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2461, 2462 of this title.

PART G—APPEALS TO COURTS AND OTHER REVIEW

§ 2461. Appeals

From the decisions made under sections 2404, 2443, 2501, 2502, and 2568 of this title appeal may, within sixty days or such further times as the Secretary allows, be taken under the Federal Rules of Appellate Procedure. The Court of Customs and Patent Appeals and United States Courts of Appeals shall have jurisdiction, with venue in the case of the latter as stated in section 2343 of title 28.

(Pub. L. 91-577, title II, § 71, Dec. 24, 1970, 84 Stat. 1550.)

FEDERAL RULES OF APPELLATE PROCEDURE

Review and enforcement of orders of administrative agencies, boards, commissions, and officers, see rule 15 et seq., Title 28, Appendix, Judiciary and Judicial Procedure.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2404, 2463, 2568 of this title; title 28 section 1545.

§ 2462. Civil action against Secretary

An applicant dissatisfied with a decision under section 2443 or 2501 of this title, may, as an alternative to appeal, have remedy by civil action against the Secretary in the United States District Court for the District of Columbia. Such action shall be commenced within sixty days after such decision or within such further time as the Secretary allows. The court may, in the case of review of a decision by the Secretary refusing plant variety protection, adjudge that such applicant is entitled to receive a certificate of plant variety protection for his variety as specified in his application as the facts of the case may appear, on compliance with the requirements of this chapter.

(Pub. L. 91-577, title II, § 72, Dec. 24, 1970, 84 Stat. 1550.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2404 of this title.

§ 2463. Appeal or civil action in contested cases

(a) A party to a proceeding under section 2502 of this title, dissatisfied with the decision, may take an appeal under section 2461 of this title or may have remedy by civil action if commenced within sixty days after such decision or within such further time as the Secretary allows. A party contemplating appeal as provided herein shall notify all adverse parties of his intention and any such adverse party, not the Secretary, shall have the right, by notice served within ten days of the notice to him, to elect that any review shall be by civil action. In such suits the record in the Plant Variety Protection Office shall be admitted on motion of any party upon the terms and conditions as to costs, expenses, and the further cross-examination of witnesses, as the court imposes, without prejudice to the right of the parties to take further testimony. The testimony and exhibits of the record in the Plant Variety Protection Office when admitted shall have the same effect as if originally taken and produced in the suit.

(b) Such suit may be instituted against the party in interest as shown by the record of the Plant Variety Protection Office at the time of the decision complained of, but any party in interest may become a party to the action. If there be adverse parties residing in a plurality of districts not embraced within the same State, or an adverse party residing in a foreign country, the United States District Court for the District of Columbia, or any United States district court to which it may transfer the case, shall have jurisdiction and may issue summons against the adverse parties directed to the marshall of any district in which any adverse party resides. Summons against adverse parties residing in foreign countries may be served by publication or otherwise as the court directs. The Secretary shall not be made a party but he shall have the right to intervene. Judgment of the court in favor of the right of an applicant to plant variety protection shall authorize the Secretary to issue a certificate of plant variety protection on the filing in the Plant Variety Protection Office of a certified copy of the judgment and on compliance with the requirements of this chapter.

(Pub. L. 91-577, title II, § 73, Dec. 24, 1970, 84 Stat. 1550.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2504 of this title.

PART H—CERTIFICATES OF PLANT VARIETY PROTECTION

§ 2481. Plant variety protection

(a) If it appears that a certificate of plant variety protection should be issued on an application, a written notice of allowance shall be given or mailed to the owner. The notice shall specify the sum, constituting the issue fee, which shall be paid within one month thereafter.

(b) Upon timely payment of this sum, and provided that deposit of seed has been made in accordance with section 2422(3) of this title, the certificate of plant variety protection shall issue.

(c) If any payment required by this section is not timely made, but is submitted with an additional fee prescribed by the Secretary within nine months after the due date or within such further time as the Secretary may allow, it shall be accepted.

(Pub. L. 91-577, title II, § 81, Dec. 24, 1970, 84 Stat. 1551.)

§ 2482. How issued

A certificate of plant variety protection shall be issued in the name of the United States of America under the seal of the Plant Variety Protection Office, and shall be signed by the Secretary or have his signature placed thereon, and shall be recorded in the Plant Variety Protection Office.

(Pub. L. 91-577, title II, § 82, Dec. 24, 1970, 84 Stat. 1551.)

§ 2483. Contents and term of plant variety protection

(a) Every certificate of plant variety protection shall certify that the breeder (or his successor in interest) his heirs or assignees, has the right, during the term of the plant variety protection, to exclude others from selling the variety, or offering it for sale, or reproducing it, or importing it, or exporting it, or using it in producing (as distinguished from developing) a hybrid or different variety therefrom, to the extent provided by this chapter. If the owner so elects, the certificate shall also specify that in the United States, seed of the variety shall be sold by variety name only as a class of certified seed and, if specified, shall also conform to the number of generations designated by the owner. Any rights, or all rights except those elected under the preceding sentence, may be waived; and the certificate shall conform to such waiver. The Secretary may at his discretion permit such election or waiver to be made after certificating and amend the certificate accordingly, without retroactive effect.

(b) The term of plant variety protection shall expire seventeen years from the date of issue of the certificate in the United States. If the certificate is not issued within three years from the effective filing date, the Secretary may shorten the term by the amount of delay in the prosecution of the application attributed by the Secretary to the applicant.

(c) The term of plant variety protection shall also expire if the owner fails to comply with regulations, in force at the time of certificating, relating to replenishing seed in a public repository: *Provided, however,* That this expiration shall not occur unless notice is mailed to the last owner recorded as provided in section 2531(d) of this title and he fails, within the time allowed thereafter, not less than three months, to comply with said regulations, paying an additional fee to be prescribed by the Secretary.

(Pub. L. 91-577, title II, § 83, Dec. 24, 1970, 84 Stat. 1551.)

§ 2484. Certificate of correction of Plant Variety Protection Office mistake

Whenever a mistake in a certificate of plant variety protection, incurred through the fault of the Plant Variety Protection Office, is clearly disclosed by the records of the Office, the Secretary may issue a certificate of correction stating the fact and nature of such mistake, under seal, without charge, to be recorded in the records of plant variety protection. A copy thereof shall be attached to each copy of the published specifications or certificate of plant variety protection and such certificate of correction shall be considered as part of the original certificate of plant variety protection. Every such certificate of plant variety protection shall have the same effect as if the same had been originally issued in such corrected form. The Secretary may issue a corrected certificate of plant variety protection without charge in lieu of and with like effect as a certificate of correction.

(Pub. L. 91-577, title II, § 84, Dec. 24, 1970, 84 Stat. 1552.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2485 of this title.

§ 2485. Certificate of correction of applicant's mistake

Whenever a mistake of a clerical or typographical nature, or of minor character, or in the description of the variety, which was not the fault of the Plant Variety Protection Office, appears in a certificate of plant variety protection and a showing has been made that such mistake occurred in good faith, the Secretary may, upon payment of the required fee, issue a certificate of correction in the manner and with attachment of copies as in section 2484 of this title, if the correction unquestionably could have been made before the certificate issued. Such certificate of plant variety protection shall have the same effect and operation in law on the trial of actions for causes thereafter arising as if the same had been originally issued in such corrected form.

(Pub. L. 91-577, title II, § 85, Dec. 24, 1970, 84 Stat. 1552.)

§ 2486. Correction of named breeder

An error as to the naming of a breeder in the application, without deceptive intent, shall not affect validity of plant variety protection and may be corrected at any time by the Secretary in accordance with regulations established by him or upon order of a federal court before which the matter is called in question. Upon

such correction the Secretary shall issue a certificate accordingly. Such correction shall not deprive any person of any rights he otherwise would have had.

(Pub. L. 91-577, title II, § 86, Dec. 24, 1970, 84 Stat. 1552.)

PART I—REEXAMINATION AFTER ISSUE, AND CONTESTED PROCEEDINGS

§ 2501. Reexamination after issue

(a) Any person may, within five years after the issuance of a certificate of plant variety protection, notify the Secretary in writing of facts which may have a bearing on the protectability of the variety, and the Secretary may cause such plant variety protection to be reexamined in the light thereof.

(b) Reexamination of plant variety protection under this section and appeals shall be pursuant to the same procedures and with the same rights as for original examinations. Abandonment of the procedure while subject to a ruling against the retention of the certificate shall result in cancellation of the plant variety certificate thereon and notice thereof shall be endorsed on copies of the specification of the protected plant variety thereafter distributed by the Plant Variety Protection Office.

(c) If a person acting under subsection (a) of this section makes a prima facie showing of facts needing proof, the Secretary may direct that the reexamination include such interparty proceedings as he shall establish.

(Pub. L. 91-577, title II, § 91, Dec. 24, 1970, 84 Stat. 1552.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2461, 2462 of this title.

§ 2502. Priority contest

(a) If the Secretary determines that two applications of different applicants may be based on the same variety, he may:

(1) Initiate a priority contest on his own motion whether or not one of the applications may have been certificated; or

(2) Issue a certificate on the application having the earliest effective filing date, with notice to all; or

(3) Issue a certificate naming alternative owners, under a single variety name acceptable to both.

(b) On request of any person when a certificate has been issued naming another as an owner or alternative owner, both having applied for protection on the same variety, the Secretary shall institute a priority contest, except that any person shall have forfeited his right to assert priority for the purpose of obtaining plant variety protection when an adverse certificate has issued if he fails to make the request within one year of the mailing of notice specified in part [1] (2) above or if he fails to make the request within the period for taking action after refusal of his application on the basis of the adverse certificate.

(Pub. L. 91-577, title II, § 92, Dec. 24, 1970, 84 Stat. 1553.)

[1] So in original. Probably should be "paragraph".

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2461, 2463, 2503 of this title.

§ 2503. Effect of adverse final judgment or of nonaction

(a) A final judgment under section 2502 of this title adverse to an application from which no appeal or other review had been or can be taken or had shall constitute cancellation of any certificating on that application, and notice thereof shall be endorsed on copies of the specifications of the protected plant variety thereafter distributed by the Plant Variety Protection Office.

(b) Any person who has not proceeded in accordance with the provision of this part shall not be foreclosed or in any way prejudiced with respect to the defense of an infringement suit or affirmative relief under declaratory judgment proceedings.

(c) No person subject to an adverse decision in a proceeding under this part shall be foreclosed with respect to asserting comparable grounds in defense of an infringement suit or as a basis for affirmative relief under declaratory judgment proceedings.

(Pub. L. 91-577, title II, § 93, Dec. 24, 1970, 84 Stat. 1553.)

§ 2504. Interfering plant variety protection

The owner of a certificate of plant variety protection may have relief against another owner of a certificate of the same variety by civil action, and the court may adjudge the question of validity of the respective certificates, or the ownership of the certificate. The provisions of section 2463(b) of this title shall apply to actions brought under this section.

(Pub. L. 91-577, title II, § 94, Dec. 24, 1970, 84 Stat. 1553.)

SUBCHAPTER III—PLANT VARIETY PROTECTION AND RIGHTS

PART J—OWNERSHIP AND ASSIGNMENT

§ 2531. Ownership and assignment

(a) Subject to the provisions of this subchapter, plant variety protection shall have the attributes of personal property.

(b) Applications for certificates of plant variety protection, or any interest in a variety, shall be assignable by an instrument in writing. The owner may in like manner license or grant and convey an exclusive right to use of the variety in the whole or any specified part of the United States.

(c) A certificate of acknowledgment under the hand and official seal of a person authorized to administer oaths within the United States, or in a foreign country, of a diplomatic or consular officer of the United States or an officer authorized to administer oaths whose authority is proved by a certificate of a diplomatic or consular officer of the United States, shall be prima facie evidence of the execution of an assignment, grant, license, or conveyance of plant variety protection or application for plant variety protection.

(d) An assignment, grant, conveyance or license shall be void as against any subsequent purchaser or mortgagee for a valuable consideration, without notice, unless it, or an acknowledgment thereof by the person giving such encumbrance that there is such encumbrance, is filed for recording in the Plant Variety Protection Office within one month from its date or at least one month prior to the date of such subsequent purchase or mortgage.

(Pub. L. 91-577, title III, § 101, Dec. 24, 1970, 84 Stat. 1554.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2483 of this title.

§ 2532. Ownership during testing

An owner who, with notice that release is for testing only, releases possession of seed or other sexually reproducible plant material for testing retains ownership with respect thereto; and any diversion from authorized testing, or any unauthorized retention, of such material by anyone who has knowledge that it is under such notice, or who is chargeable with notice, is prohibited, and violates the property rights of the owner. Anyone receiving the material tagged or labeled with the notice is chargeable with the notice. The owner is entitled to remedy and redress in a civil action hereunder. No remedy available by State or local law is hereby excluded. No such notice shall be used, or if used be effective, when the owner has made identical sexually reproducible plant material available to the public, as by sale thereof.

(Pub. L. 91-577, title III, § 102, Dec. 24, 1970, 84 Stat. 1554.)

PART K—INFRINGEMENT OF PLANT VARIETY PROTECTION

§ 2541. Infringement of plant variety protection

Except as otherwise provided in this subchapter, it shall be an infringement of the rights of the owner of a novel variety to perform without authority, any of the following acts in the United States, or in commerce which can be regulated by Congress or affecting such commerce, prior to expiration of the right to plant variety protection but after either the issue of the certificate or the distribution of a novel plant variety with the notice under section 2567 of this title:

(1) sell the novel variety, or offer it or expose it for sale, deliver it, ship it, consign it, exchange it, or solicit an offer to buy it, or any other transfer of title or possession of it;

(2) import the novel variety into, or export it from, the United States;

(3) sexually multiply the novel variety as a step in marketing (for growing purposes) the variety; or

(4) use the novel variety in producing (as distinguished from developing) a hybrid or different variety therefrom; or

(5) use seed which had been marked "propagation prohibited" or progeny thereof to propagate the novel variety; or

(6) dispense the novel variety to another, in a form which can be propagated, without notice as to being a protected variety under which it was received; or

(7) perform any of the foregoing acts even in instances in which the novel variety is multiplied other than sexually, except in pursuance of a valid United States plant patent; or

(8) instigate or actively induce performance of any of the foregoing acts.

(Pub. L. 91-577, title III, § 111, Dec. 24, 1970, 84 Stat. 1554.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2543, 2561 of this title.

§ 2542. Grandfather clause

Nothing in this chapter shall abridge the right of any person, or his successor in interest, to reproduce or sell a variety developed and produced by such person more than one year prior to the effective filing date of an adverse application for a certificate of plant variety protection.

(Pub. L. 91-577, title III,, § 112, Dec. 24, 1970, 84 Stat. 1555.)

§ 2543. Right to save seed; crop exemption

Except to the extent that such action may constitute an infringement under subsections (3) and (4) of section 2541 of this title, it shall not infringe any right hereunder for a person to save seed produced by him from seed obtained, or descended from seed obtained, by authority of the owner of the variety for seeding purposes and use such saved seed in the production of a crop for use on his farm, or for sale as provided in this section: *Provided,* That without regard to the provisions of section 2541(3) of this title it shall not infringe any right hereunder for a person, whose primary farming occupation is the growing of crops for sale for other than reproductive purposes, to sell such saved seed to other persons so engaged, for reproductive purposes, provided such sale is in compliance with such State laws governing the sale of seed as may be applicable. A bona fide sale for other than reproductive purposes, made in channels usual for such other purposes, of seed produced on a farm either from seed obtained by authority of the owner for seeding purposes or from seed produced by descent on such farm from seed obtained by authority of the owner for seeding purposes shall not constitute an infringement. A purchaser who diverts seed from such channels to seeding purposes shall be deemed to have notice under section 2567 of this title that his actions constitute an infringement.

(Pub. L. 91-577, title III, § 113, Dec. 24, 1970, 84 Stat. 1555.)

§ 2544. Research exemption

The use and reproduction of a protected variety for plant breeding or other bona fide research shall not constitute an infringement of the protection provided under this chapter.

(Pub. L. 91-577, title III, § 114, Dec. 24, 1970, 84 Stat. 1555.)

§ 2545. Intermediary exemption

Transportation or delivery by a carrier in the ordinary course of its business as a carrier, or advertising by a person in the advertising business in the ordinary course of that business, shall not constitute an infringement of the protection provided under this chapter.

(Pub. L. 91-577, title III, § 115, Dec. 24, 1970, 84 Stat. 1555.)

PART L—REMEDIES FOR INFRINGEMENT OF PLANT VARIETY PROTECTION, AND OTHER ACTIONS

§ 2561. Remedy for infringement of plant variety protection

An owner shall have remedy by civil action for infringement of his plant variety protection under section 2541 of this title. If a variety is sold under the name of a variety shown in a certificate, there is a prima facie presumption that it is the same variety.

(Pub. L. 91-577, title III, § 121, Dec. 24, 1970, 84 Stat. 1556.)

§ 2562. Presumption of validity; defenses

(a) Certificates of plant variety protection shall be presumed valid. The burden of establishing invalidity of a plant variety protection shall rest on the party asserting invalidity.

(b) The following shall be defenses in any action charging infringement and shall be pleaded: (1) noninfringement, absence of liability for infringement, or unenforceability; (2) invalidity of the plant variety protection in suit on any ground specified in section 2402 of this title as a condition for protectability; (3) invalidity of the plant variety protection in suit for failure to comply with any requirement of section 2422 of this title; (4) that the asserted infringement was performed under an existing certificate adverse to that asserted and prior to notice of the infringement; and (5) any other fact or act made a defense by this chapter.

(Pub. L. 91-577, title III, § 122, Dec. 24, 1970, 84 Stat. 1556.)

§ 2563. Injunction

The several courts having jurisdiction of cases under this subchapter may grant injunctions in accordance with the principles of equity to prevent the violation of any right hereunder on such terms as the court deems reasonable.

(Pub. L. 91-577, title III, § 123, Dec. 24, 1970, 84 Stat. 1556.)

§ 2564. Damages

(a) Upon finding an infringement the court shall award damages adequate to compensate for the infringement but in no event less than a reasonable royalty for the use made of the variety by the infringer, together with interest and costs as fixed by the court.

(b) When the damages are not determined by the jury, the court shall determine them. In either event the court may increase the damages up to three times the amount determined.

(c) The court may receive expert testimony as an aid to the determination of damages or of what royalty would be reasonable under the circumstances.

(d) As to infringement prior to, or resulting from a planting prior to, issuance of a certificate for the infringed variety, a court finding the infringer to have established innocent intentions, shall have discretion as to awarding damages.

(Pub. L. 91-577, title III, § 124, Dec. 24, 1970, 84 Stat. 1556.)

§ 2565. Attorney fees

The court in exceptional cases may award reasonable attorney fees to the prevailing party.

(Pub. L. 91-577, title III, § 125, Dec. 24, 1970, 84 Stat. 1556.)

§ 2566. Time limitation on damages

(a) No recovery shall be had for that part of any infringement committed more than six years (or known to the owner more than one year) prior to the filing of the complaint or counterclaim for infringement in the action.

(b) In the case of claims against the United States Government for unauthorized use of a protected variety, the period between the date of receipt of written claim for compensation by the department or agency of the Government having authority to settle such claim, and the date of mailing by the Government of a notice to the claimant that his claim has been denied shall not be counted as part of the period referred to in the preceding paragraph.

(Pub. L. 91-577, title III, § 126, Dec. 24, 1970, 84 Stat. 1556.)

§ 2567. Limitation of damages; marking and notice

Owners may give notice to the public by physically associating with or affixing to the container of seed of a novel variety or by fixing to the novel variety, a label containing the words "Propagation Prohibited" and after the certificate issues, such additional words as "U.S. Protected Variety". In the event the novel variety is distributed by authorization of the owner and is received by the infringer without such marking, no damages shall be recovered against such infringer by the owner in any action for infringement, unless the infringer has actual notice or knowledge that propagation is prohibited or that the variety is a protected variety, in which event damages may be recovered only for infringement occurring after such notice. As to both damages and injunction, a court shall have discretion to be lenient as to disposal of materials acquired in good faith by acts prior to such notice.

(Pub. L. 91-577, title III, § 127, Dec. 24, 1970, 84 Stat. 1557.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2541, 2543 of this title.

§ 2568. False marking; cease and desist orders

(a) Each of the following acts, if performed in connection with the sale, offering for sale, or advertising of sexually reproducible plant mate-

rial, is prohibited, and the Secretary may, if he determines after an opportunity for hearing that the act is being so performed, issue an order to cease and desist, said order being binding unless appealed under section 2461 of this title:

(1) Use of the words "U.S. Protected Variety" or any word or number importing that the material is a variety protected under certificate, when it is not.

(2) Use of any wording importing that the material is a variety for which an application for plant variety protection is pending, when it is not.

(3) Use of the phrase "propagation prohibited" or similar phrase without reasonable basis, a statement of this basis being promptly filed with the Secretary if the phrase is used beyond testing and no application has been filed. Any reasonable basis expires one year after the first sale of the variety except as justified thereafter by a pending application or a certificate still in force.

(b) Anyone convicted of violating a binding cease and desist order, or of performing any act prohibited in subsection (a) of this section for the purpose of deceiving the public, shall be fined not more than $10,000 and not less than $500.

(c) Anyone whose business is damaged or is likely to be damaged by an act prohibited in subsection (a) of this section, or is subjected to competition in connection with which such act is performed, may have remedy by civil action.

(Pub. L. 91-577, title III, § 128, Dec. 24, 1970, 84 Stat. 1557.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2461 of this title.

§ 2569. Nonresident proprietors; service and notice

Every owner not residing in the United States may file in the Plant Variety Protection Office a written designation stating the name and address of a person residing within the United States on whom may be served process or notice of proceedings affecting the plant variety protection or rights thereunder. If the person designated cannot be found at the address given in the last designation, or if no person has been designated, the United States District Court for the District of Columbia shall have jurisdiction and summons shall be served by publication or otherwise as the court directs. The court shall have the same jurisdiction to take any action respecting the plant variety protection, or rights thereunder that it would have if the owner were personally within the jurisdiction of the court.

(Pub. L. 91-577, title III, § 129, Dec. 24, 1970, 84 Stat. 1557.)

PART M—INTENT AND SEVERABILITY

§ 2581. Intent

It is the intent of Congress to provide the indicated protection for new varieties by exercise of any constitutional power needed for that end, so as to afford adequate encouragement for research, and for marketing when appropriate, to yield for the public the benefits of new varieties. Constitutional clauses 3 and 8 of article I, section 8 are both relied upon.

(Pub. L. 91-577, title III, § 131, Dec. 24, 1970, 84 Stat. 1558.)

§ 2582. Severability

If this chapter is held unconstitutional as to some provisions or circumstances, it shall remain in force as to the remaining provisions and other circumstances.

(Pub. L. 91-577, title III, § 132, Dec. 24, 1970, 84 Stat. 1558.)

§ 2583. Exempted plants

The provisions of this chapter shall not apply to the seeds, plants, or transplants of okra, celery, peppers, tomatoes, carrots, and cucumbers.

(Pub. L. 91-577, title III, § 144, Dec. 24, 1970, 84 Stat. 1559.)

CODIFICATION

Section was enacted as part of the Plant Variety Protection Act, Pub. L. 91-577, which comprises this chapter, but not as part of chapter 13 thereof, which comprises this Part.

CHAPTER 58—POTATO RESEARCH AND PROMOTION

Sec.
2611. Congressional findings and declaration of policy.
2612. Definitions.
2613. Authority for issuance and amendment of plan.
2614. Notice and hearings.
2615. Finding and issuance of plan.
2616. Regulations.
2617. Required terms and conditions of plans.
(a) National Potato Promotion Board; establishment; powers and duties.
(b) Membership of board.
(c) Compensation and expenses of board members.
(d) Budget; preparation and submission.
(e) Costs; assessment rate; limitation.
(f) Restrictions.
(g) Assessment; refund.
(h) Research, development, advertising or promotion programs or projects; development and submission by board; approval by Secretary.
(i) Contract authority of board; funds for payment of cost.
(j) Recordkeeping; reports for accounting; receipts and disbursements; audit report.
2618. Permissive terms and conditions of plans.
(a) Exemptions.
(b) Handler payment and reporting schedules.
(c) Advertisement and sales promotion programs or projects.
(d) Research and development projects and studies for marketing and utilization of potatoes.
(e) Reserve funds; accumulation; limitation.
(f) Foreign markets; sales development and expansion.
(g) Incidental and necessary terms and conditions.
2619. Assessments.
(a) Collection and payment; recordkeeping; limitation.

Sec.
(b) Records and reports; availability.
(c) Confidential information; disclosure during proceedings; prohibition inapplicable to general statements and publication of violations; penalties; removal from office.
2620. Procedural rights of persons subject to plan.
(a) Administrative proceedings; petition; hearing; finality of ruling.
(b) Judicial review; jurisdiction; complaint; remand; relief during pendency of proceedings.
2621. Enforcement; penalties.
2622. Investigations.
(a) Administration of oath; subpena; contempts; process; jurisdiction.
(b) Self-incrimination; privilege.
2623. Issuance of plans; referendum; penalties for disclosure of confidential information or reports.
2624. Suspension or termination of plans; referendum.
2625. Amendment procedure.
2626. Separability of provisions.
2627. Authorization.

§ 2611. Congressional findings and declaration of policy

Potatoes are a basic food in the United States. They are produced by many individual potato growers in every State in the United States. In 1966, there were one million four hundred and ninety-seven thousand acres of cropland in the United States devoted to the production of potatoes. Approximately two hundred and seventy-five million hundredweight of potatoes have been produced annually during the past five years with an estimated sales value to the potato producers of $561,000,000.

Potatoes and potato products move, in a large part, in the channels of interstate commerce, and potatoes which do not move in such channels directly burden or affect interstate commerce in potatoes and potato products. All potatoes produced in the United States are in the current of interstate commerce or directly burden, obstruct, or affect interstate commerce in potatoes and potato products.

The maintenance and expansion of existing potato markets and the development of new or improved markets are vital to the welfare of potato growers and those concerned with marketing, using, and processing potatoes as well as the general economic welfare of the Nation.

Therefore, it is the declared policy of the Congress and the purpose of this chapter that it is essential in the public interest, through the exercise of the powers provided herein, to authorize the establishment of an orderly procedure for the financing, through adequate assessments on all potatoes harvested in the United States for commercial use, and the carrying out of an effective and continuous coordinated program of research, development, advertising, and promotion designed to strengthen potatoes' competitive position, and to maintain and expand domestic and foreign markets for potatoes produced in the United States.

(Pub. L. 91-670, title III, § 302, Jan. 11, 1971, 84 Stat. 2041.)

Effective Date

Section 319 of Pub. L. 91-670 provided that: "This title [this chapter] shall take effect upon enactment [Jan. 11, 1971]".

Short Title

Section 301 of Pub. L. 91-670 provided that: "This title [which enacted this chapter] may be cited as the 'Potato Research and Promotion Act'."

§ 2612. Definitions

As used in this chapter:

(a) The term "Secretary" means the Secretary of Agriculture.

(b) The term "person" means any individual, partnership, corporation, association, or other entity.

(c) The term "potatoes" means all varieties of Irish potatoes grown by producers in the forty-eight contiguous States of the United States.

(d) The term "handler" means any person (except a common or contract carrier of potatoes owned by another person) who handles potatoes in a manner specified in a plan issued pursuant to this chapter or in the rules and regulations issued thereunder.

(e) The term "producer" means any person engaged in the growing of five or more acres of potatoes.

(f) The term "promotion" means any action taken by the National Potato Promotion Board, pursuant to this chapter, to present a favorable image for potatoes to the public with the express intent of improving their competitive positions and stimulating sales of potatoes and shall include, but shall not be limited to, paid advertising.

(Pub. L. 91-670, title III, § 303, Jan. 11, 1971, 84 Stat. 2041.)

§ 2613. Authority for issuance and amendment of plan

To effectuate the declared policy of this chapter, the Secretary shall, subject to the provisions of this chapter, issue and from time to time amend, orders applicable to persons engaged in the handling of potatoes (hereinafter referred to as handlers) and shall have authority to issue orders authorizing the collection of assessments on potatoes handled under the provisions of this chapter, and to authorize the use of such funds to provide research, development, advertising, and promotion of potatoes in a manner prescribed in this chapter. Any order issued by the Secretary under this chapter shall hereinafter in this chapter be referred to as a "plan". Any such plan shall be applicable to potatoes produced in the forty-eight contiguous States of the United States.

(Pub. L. 91-670, title III, § 304, Jan. 11, 1971, 84 Stat. 2042.)

§ 2614. Notice and hearings

When sufficient evidence is presented to the Secretary by potato producers, or whenever the Secretary has reason to believe that a plan will tend to effectuate the declared policy of this chapter, he shall give due notice and opportunity for a hearing upon a proposed plan. Such hearing may be requested by potato producers or by any other interested person or persons,

including the Secretary, when the request for such hearing is accompanied by a proposal for a plan.

(Pub. L. 91-670, title III, § 305, Jan. 11, 1971, 84 Stat. 2042.)

§ 2615. Finding and issuance of plan

After notice and opportunity for hearing, the Secretary shall issue a plan if he finds, and sets forth in such plan, upon the evidence introduced at such hearing, that the issuance of such plan and all the terms and conditions thereof will tend to effectuate the declared policy of this chapter.

(Pub. L. 91-670, title III, § 306, Jan. 11, 1971, 84 Stat. 2042.)

§ 2616. Regulations

The Secretary is authorized to make such regulations with the force and effect of law, as may be necessary to carry out the provisions of this chapter and the powers vested in him by this chapter.

(Pub. L. 91-670, title III, § 307, Jan. 11, 1971, 84 Stat. 2042.)

§ 2617. Required terms and conditions of plans

Any plan issued pursuant to this chapter shall contain the following terms and conditions:

(a) National Potato Promotion Board; establishment; powers and duties

Providing for the establishment by the Secretary of a National Potato Promotion Board (hereinafter referred to as "the board") and for defining its powers and duties, which shall include powers—

(1) to administer such plan in accordance with its terms and conditions;

(2) to make rules and regulations to effectuate the terms and conditions of such plan;

(3) to receive, investigate, and report to the Secretary complaints of violations of such plan; and

(4) to recommend to the Secretary amendments to such plan.

(b) Membership of board

Providing that the board shall be composed of representatives of producers selected by the Secretary from nominations made by producers in such manner as may be prescribed by the Secretary. In the event producers fail to select nominees for appointment to the board, the Secretary shall appoint producers on the basis of representation provided for in such plan.

(c) Compensation and expenses of board members

Providing that board members shall serve without compensation, but shall be reimbursed for reasonable expenses incurred in performing their duties as members of the board.

(d) Budget; preparation and submission

Providing that the board shall prepare and submit to the Secretary for his approval a budget, on a fiscal period basis, of its anticipated expenses and disbursements in the administration of the plan, including probable costs of research, development, advertising, and promotion.

(e) Costs; assessment rate; limitation

Providing that the board shall recommend to the Secretary and the Secretary shall fix the assessment rate required for such costs as may be incurred pursuant to subsection (d) of this section; but in no event shall the assessment rate exceed 1 cent per one hundred pounds of potatoes handled.

(f) Restrictions

Providing that—

(1) funds collected by the board shall be used for research, development, advertising, or promotion of potatoes and potato products and such other expenses for the administration, maintenance, and functioning of the board, as may be authorized by the Secretary;

(2) no advertising or sales promotion program shall make any reference to private brand names or use false or unwarranted claims in behalf of potatoes or their products or false or unwarranted statements with respect to the attributes or use of any competing products; and

(3) no funds collected by the board shall in any manner be used for the purpose of influencing governmental policy or action, except as provided by subsection (a)(4) of this section.

(g) Assessment; refund

Providing that, notwithstanding any other provisions of this chapter, any potato producer against whose potatoes any assessment is made and collected under authority of this chapter and who is not in favor of supporting the research and promotion program as provided for under this chapter shall have the right to demand and receive from the board a refund of such assessment: *Provided,* That such demand shall be made personally by such producer in accordance with regulations and on a form and within a time period prescribed by the board and approved by the Secretary, but in no event less than ninety days, and upon submission of proof satisfactory to the board that the producer paid the assessment for which refund is sought, and any such refund shall be made within sixty days after demand therefor.

(h) Research, development, advertising or promotion programs or projects; development and submission by board; approval by Secretary

Providing that the board shall, subject to the provisions of subsections (e) and (f) of this section, develop and submit to the Secretary for his approval any research, development, advertising or promotion programs or projects, and that any such program or project must be approved by the Secretary before becoming effective.

(i) Contract authority of board; funds for payment of cost

Providing the board with authority to enter into contracts or agreements, with the approval of the Secretary, for the development and carrying out of research, development, advertising or promotion programs or projects, and the payment of the cost thereof with funds collected pursuant to this chapter.

(j) Recordkeeping; reports for accounting; receipts and disbursements; audit report

Providing that the board shall maintain books and records and prepare and submit to the Secretary such reports from time to time as may be prescribed for appropriate accounting with respect to the receipt and disbursement of funds entrusted to it and cause a complete audit report to be submitted to the Secretary at the end of each fiscal period.

(Pub. L. 91-670, title III, § 308, Jan. 11, 1971, 84 Stat. 2042.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2618 of this title.

§ 2618. Permissive terms and conditions of plans

Any plan issued pursuant to this chapter may contain one or more of the following terms and conditions:

(a) Exemptions

Providing authority to exempt from the provisions of the plan potatoes used for nonfood uses, and authority for the board to require satisfactory safeguards against improper use of such exemptions.

(b) Handler payment and reporting schedules

Providing for authority to designate different handler payment and reporting schedules to recognize differences in marketing practices and procedures utilized in different production areas.

(c) Advertisement and sales promotion programs or projects

Providing for the establishment, issuance, effectuation, and administration of appropriate programs or projects for the advertising and sales promotion of potatoes and potato products and for the disbursement of necessary funds for such purposes: *Provided, however,* That any such program or project shall be directed toward increasing the general demand for potatoes and potato products: *And provided further,* That such promotional activities shall comply with the provisions of section 2617(f) of this title.

(d) Research and development projects and studies for marketing and utilization of potatoes

Providing for establishing and carrying on research and development projects and studies to the end that the marketing and utilization of potatoes may be encouraged, expanded, improved, or made more efficient, and for the disbursement of necessary funds for such purposes.

(e) Reserve funds; accumulation; limitation

Providing for authority to accumulate reserve funds from assessments collected pursuant to this chapter, to permit an effective and continuous coordinated program of research, development, advertising, and promotion in years when the production and assessment income may be reduced *Provided,* That the total reserve fund does not exceed the amount budgeted for two years' operation.

(f) Foreign markets; sales development and expansion

Providing for authority to use funds collected herein, with the approval of the Secretary, for the development and expansion of potato and potato product sales in foreign markets.

(g) Incidental and necessary terms and conditions

Terms and conditions incidental to and not inconsistent with the terms and conditions specified in this chapter and necessary to effectuate the other provisions of such plan.

(Pub. L. 91-670, title III, § 309, Jan. 11, 1971, 84 Stat. 2044.)

§ 2619. Assessments

(a) Collection and payment; recordkeeping; limitation

Each handler designated by the board, pursuant to regulations issued under the plan, to make payment of assessments shall be responsible for payment to the board, as it may direct, of any assessment levied on potatoes; and such handler may collect from any producer or deduct from the proceeds paid to any producer, on whose potatoes such assessment is made, any such assessment required to be paid by such handler. Such handler shall maintain a separate record with respect to each producer for whom potatoes were handled, and such records shall indicate the total quantity of potatoes handled by him including those handled for producers and for himself, shall indicate the total quantity of potatoes handled by him which are included under the terms of a plan as well as those which are exempt under such plan, and shall indicate such other information as may be prescribed by the board. To facilitate the collection and payment of such assessments, the board may designate different handlers or classes of handlers to recognize differences in marketing practices or procedures utilized in any State or area. No more than one such assessment shall be made on any potatoes.

(b) Records and reports; availability

Handlers responsible for payment of assessments under subsection (a) of this section shall maintain and make available for inspection by the Secretary such books and records as required by the plan and file reports at the times, in the manner, and having the content prescribed by the plan, to the end that information and data shall be made available to the board and to the Secretary which is appropriate or necessary to the effectuation, administration, or enforcement of this chapter or of any plan or regulation issued pursuant to this chapter.

(c) Confidential information; disclosure during proceedings; prohibition inapplicable to general statements and publication of violations; penalties; removal from office

All information obtained pursuant to subsections (a) and (b) of this section shall be kept confidential by all officers and employees of the Department of Agriculture and of the board, and only such information so furnished or acquired as the Secretary deems relevant shall be disclosed by them, and then only in a suit or administrative hearing brought at the direction, or upon the request, of the Secretary, or to which he or any officer of the United

States is a party, and involving the plan with reference to which the information to be disclosed was furnished or acquired. Nothing in this section shall be deemed to prohibit—

(1) the issuance of general statements based upon the reports of a number of handlers subject to a plan if such statements do not identify the information furnished by any person, or

(2) the publication by direction of the Secretary of the name of any person violating any plan together with a statement of the particular provisions of the plan violated by such person.

Any such officer or employee violating the provisions of this subsection shall upon conviction be subject to a fine of not more than $1,000 or imprisonment for not more than one year, or both, and shall be removed from office.

(Pub. L. 91-670, title III, § 310, Jan. 11, 1971, 84 Stat. 2044.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2623 of this title.

§ 2620. Procedural rights of persons subject to plan

(a) Administrative proceedings; petition; hearing; finality of ruling

Any person subject to a plan may file a written petition with the Secretary, stating that such plan or any provision of such plan or any obligation imposed in connection therewith is not in accordance with law and praying for a modification thereof or to be exempted therefrom. He shall thereupon be given an opportunity for a hearing upon such petition, in accordance with regulations made by the Secretary. After such hearing, the Secretary shall make a ruling upon the prayer of such petition which shall be final, if in accordance with law.

(b) Judicial review; jurisdiction; complaint; remand; relief during pendency of proceedings

The district courts of the United States in any district in which such person is an inhabitant, or has his principal place of business, are hereby vested with jurisdiction to review such ruling: *Provided*, That a complaint for that purpose is filed within twenty days from the date of the entry of such ruling. Service of process in such proceedings may be had upon the Secretary by delivering to him a copy of the complaint. If the court determines that such ruling is not in accordance with law, it shall remand such proceedings to the Secretary with directions either (1) to make such ruling as the court shall determine to be in accordance with law, or (2) to take such further proceedings as, in its opinion, the law requires. The pendency of proceedings instituted pursuant to subsection (a) of this section shall not impede, hinder, or delay the United States or the Secretary from obtaining relief pursuant to section 2621(a) of this title.

(Pub. L. 91-670, title III, § 311, Jan. 11, 1971, 84 Stat. 2045.)

§ 2621. Enforcement; penalties

(a) The several district courts of the United States are vested with jurisdiction specifically to enforce, and to prevent and restrain any person from violating, any plan or regulation made or issued pursuant to this chapter.

(b) Any handler who violates any provisions of any plan issued by the Secretary under this chapter, or who fails or refuses to remit any assessment or fee duly required of him thereunder shall be subject to criminal prosecution and shall be fined not less than $100 nor more than $1,000 for each such offense.

(Pub. L. 91-670, title III, § 312, Jan. 11, 1971, 84 Stat. 2045.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2620 of this title.

§ 2622. Investigations

(a) Administration of oath; subpena; contempts; process; jurisdiction

The Secretary may make such investigations as he deems necessary for the effective carrying out of his responsibilities under this chapter or to determine whether a handler or any other person has engaged or is engaging in any acts or practices which constitute a violation of any provision of this chapter, or of any plan, or rule or regulation issued under this chapter. For the purpose of any such investigation, the Secretary is empowered to administer oaths and affirmations, subpena witnesses, compel their attendance, take evidence, and require the production of any books, papers, and documents which are relevant to the inquiry. Such attendance of witnesses and the production of any such records may be required from any place in the United States. In case of contumacy by, or refusal to obey a subpena issued to, any person, including a handler, the Secretary may invoke the aid of any court of the United States within the jurisdiction of which such investigation or proceeding is carried on, or where such person resides or carries on business, in requiring the attendance and testimony of witnesses and the production of books, papers, and documents; and such court may issue an order requiring such person to appear before the Secretary, there to produce records, if so ordered, or to give testimony touching the matter under investigation. Any failure to obey such order of the court may be punished by such court as contempt thereof. All process in any such case may be served in the judicial district whereof such person is an inhabitant or wherever he may be found. The site of any hearings held under this section shall be within the judicial district where such handler or other person is an inhabitant or has his principal place of business.

(b) Self-incrimination; privilege

No person shall be excused from attending and testifying or from producing books, papers, and documents before the Secretary, or in obedience to the subpena of the Secretary, or in any cause or proceeding, criminal or otherwise, based upon, or growing out of any alleged violation of this chapter, or of any plan, or rule or regulation issued thereunder on the ground or for the reason that the testimony or evidence, documentary or otherwise, required of him may tend to incriminate him or subject him to a

penalty or forfeiture; but no individual shall be prosecuted or subjected to any penalty or forfeiture for or on account of any transaction, matter, or thing concerning which he is compelled, after having claimed his privilege against self-incrimination, to testify or produce evidence, documentary or otherwise, except that any individual so testifying shall not be exempt from prosecution and punishment for perjury committed in so testifying.

(Pub. L. 91-670, title III, § 313, Jan. 11, 1971, 84 Stat. 2046.)

§ 2623. Issuance of plans; referendum; penalties for disclosure of confidential information or reports

The Secretary shall conduct a referendum among producers who, during a representative period determined by the Secretary, have been engaged in the production of potatoes for the purpose of ascertaining whether the issuance of a plan is approved or favored by producers. No plan issued pursuant to this chapter shall be effective unless the Secretary determines that the issuance of such plan is approved or favored by not less than two-thirds of the producers voting in such referendum, or by the producers of not less than two-thirds of the potatoes produced during the representative period by producers voting in such referendum, and by not less than a majority of the producers voting in such referendum. The ballots and other information or reports which reveal or tend to reveal the vote of any producer or his production of potatoes shall be held strictly confidential and shall not be disclosed. Any officer or employee of the Department of Agriculture violating the provisions hereof shall upon conviction be subject to the penalties provided in section 2619(c) of this title.

(Pub. L. 91-670, title III, § 314, Jan. 11, 1971, 84 Stat. 2046.)

§ 2624. Suspension or termination of plans; referendum

(a) The Secretary shall, whenever he finds that a plan or any provision thereof obstructs or does not tend to effectuate the declared policy of this chapter, terminate or suspend the operation of such plan or such provision thereof.

(b) The Secretary may conduct a referendum at any time and shall hold a referendum on request of the board or of 10 per centum or more of the potato producers to determine if potato producers favor the termination or suspension of the plan, and he shall terminate or suspend such plan at the end of the marketing year whenever he determines that such suspension or termination is favored by a majority of those voting in a referendum, and who produce more than 50 per centum of the volume of the potatoes produced by the potato producers voting in the referendum.

(Pub. L. 91-670, title III, § 315, Jan. 11, 1971, 84 Stat. 2047.)

§ 2625. Amendment procedure

The provisions of this chapter applicable to plans shall be applicable to amendments to plans.

(Pub. L. 91-670, title III, § 316, Jan. 11, 1971, 84 Stat. 2047.)

§ 2626. Separability of provisions

If any provision of this chapter or the application thereof to any person or circumstances is held invalid, the validity of the remainder of this chapter and of the application of such provision to other persons and circumstances shall not be affected thereby.

(Pub. L. 91-670, title III, § 317, Jan. 11, 1971, 84 Stat. 2047.)

§ 2627. Authorization

There is hereby made available from the funds provided by section 612c of this title such sums as are necessary to carry out the provisions of this chapter: *Provided,* That no such sum shall be used for the payment of any expenses or expenditures of the board in administering any provision of any plan issued under authority of this chapter.

(Pub. L. 91-670, title III, § 318, Jan. 11, 1971, 84 Stat. 2047.)

CHAPTER 59—RURAL FIRE PROTECTION, DEVELOPMENT, AND SMALL FARM RESEARCH AND EDUCATION

SUBCHAPTER I—RURAL COMMUNITY FIRE PROTECTION

Sec.
2651. Fire protection assistance; purpose and findings.
2652. Cooperative agreements with State officials; terms and conditions; matching funds; limitation; State expenditures certificate.
2653. Report to President; transmittal to Congress.
2654. Authorization of appropriations.

SUBCHAPTER II—RURAL DEVELOPMENT AND SMALL FARM RESEARCH AND EDUCATION

2661. Statement of purposes.
2662. Programs authorization; cooperation and coordination with colleges and universities.
(a) Rural development extension programs.
(b) Rural development research.
(c) Small farm extension, research, and development programs.
2663. Program moneys.
(a) Authorization of appropriations.
(b) Allocation of funds.
(c) Use of funds.
(d) Contingencies for payment of funds; fiscal year availability; budget and accounting.
(e) Financing programs at universities other than universities responsible for administration of programs.
2664. Cooperating colleges and universities.
(a) Coordinated State program.
(b) State program administration; payment of funds.
(c) Institutions eligible for programs; program proposals, approval.
(d) Officials; designation for State program administration.
(e) State Rural Development Advisory Council; appointment; membership; chairman; engineering member; representation of interests; function of Council.

Sec.
2665. Agreements and plans.
(a) Memorandum of understanding.
(b) Annual program plan.
2666. Withholding funds; report to President; separate account in Treasury; State appeal to Congress; covering moneys into Treasury; State money replacement.
2667. Definitions.
2668. Regulations.

SUBCHAPTER I—RURAL COMMUNITY FIRE PROTECTION

§ 2651. Fire protection assistance; purpose and findings

In order to shield human and natural resources, financial investments, and environmental quality from losses due to fires in unprotected or poorly protected rural areas there is a need to strengthen and synergize Federal, State, and local efforts to establish an adequate protection capability wherever the lives and property of Americans are endangered by fire in rural communities and areas. The Congress hereby finds that inadequate fire protection and the resultant threat of substantial losses of life and property is a significant deterrent to the investment of the labor and capital needed to help revitalize rural America, and that well-organized, equipped, and trained firefighting forces are needed in many rural areas to encourage and safeguard public and private investments in the improvement and development of areas of rural America where organized protection against losses from fire is lacking or inadequate. To this end, the Secretary of Agriculture is authorized and directed to provide financial, technical, and other assistance to State foresters or other appropriate officials of the several States in cooperative efforts to organize, train, and equip local forces, including those of Indian tribes on Federal and State reservations or other federally recognized Indian tribal groups to prevent, control, and suppress fires threatening human life, livestock, wildlife, crops, pastures, orchards, rangeland, woodland, farmsteads, or other improvements, and other values in rural areas as defined in section 1926(a)(7) of this title.

(Pub. L. 92-419, title IV, § 401, Aug. 30, 1972, 86 Stat. 670; Pub. L. 91-524, title VIII, § 816(a), as added Pub. L. 93-86, § 1(27)(B), Aug. 10, 1973, 87 Stat. 240.)

AMENDMENTS

1973—Pub. L. 91-524, § 816(a), as added by Pub. L. 93-86, substituted "fire" for "wildfire" and "fires" for "wildfires" wherever appearing therein.

§ 2652. Cooperative agreements with State officials; terms and conditions; matching funds; limitation; State expenditures certificate

The Secretary shall carry out this subchapter in accordance with cooperative agreements, made with appropriate State officials, which include such terms and conditions as the Secretary deems necessary to achieve the purposes of this subchapter. No such agreement shall provide for financial assistance by the Secretary under this subchapter in any State during any fiscal year in excess of 50 per centum of the total budgeted expenditures or the actual expenditures, whichever is less, of the undertaking of such agreement for such year, including any expenditures of local public and private nonprofit organizations, including Indian tribal groups, participating in the activities covered by the agreement. Payments by the Secretary under any such agreement may be made on the certificate of the appropriate State official that the expenditures provided for under such agreement have been made.

(Pub. L. 92-419, title IV, § 402, Aug. 30, 1972, 86 Stat. 670.)

FISCAL YEAR TRANSITION PERIOD OF JULY 1, 1976, THROUGH SEPTEMBER 30, 1976, DEEMED FISCAL YEAR FOR PURPOSES OF MATCHING REQUIREMENTS

Pub. L. 94-274, title II, § 202, Apr. 21, 1976, 90 Stat. 392, provided that:

"The period of July 1, 1976, through September 30, 1976, shall be treated as a fiscal year for the purposes of the following provisions of law insofar as they relate to matching requirements:

"(1) section 2 of the Act of March 1, 1911 (16 U.S.C. 563);

"(2) sections 2, 4, and 5 of the Act of June 7, 1924, as amended (16 U.S.C. 565, 567, and 568);

"(3) section 4 of the Act of October 10, 1962 (16 U.S.C. 582a-3);

"(4) section 2 of the Cooperative Forest Management Act, as amended (16 U.S.C. 568d); and

"(5) section 402 of the Rural Development Act of 1972 (7 U.S.C. 2652)."

§ 2653. Report to President; transmittal to Congress

The Secretary of Agriculture shall submit to the President within two years after August 30, 1972, a written report detailing the contribution of the rural fire protection program toward achieving the purposes of this subchapter. The Secretary shall also include in such report such recommendations regarding the rural fire protection program as he deems appropriate. The President shall transmit the report to the Congress for review and appropriate action.

(Pub. L. 92-419, title IV, § 403, Aug. 30, 1972, 86 Stat. 671.)

§ 2654. Authorization of appropriations

There is authorized to be appropriated to carry out the provisions of this subchapter $7,000,000 for each of three consecutive fiscal years beginning with the fiscal year for which funds are first appropriated and obligated by the Secretary of Agriculture carrying out this subchapter.

(Pub. L. 92-419, title IV, § 404, Aug. 30, 1972, 86 Stat. 671; Pub. L. 91-524, title VIII, § 816(b), as added Pub. L. 93-86, § 1(27)(B), Aug. 10, 1973, 87 Stat. 240.)

AMENDMENTS

1973—Pub. L. 91-524, § 816(b), as added by Pub. L. 93-86, substituted "three consecutive fiscal years beginning with the fiscal year for which funds are first appropriated and obligated by the Secretary of Agriculture carrying out this subchapter" for "the fiscal years ending June 30, 1973, June 30, 1974, and June 30, 1975."

SUBCHAPTER II—RURAL DEVELOPMENT AND SMALL FARM RESEARCH AND EDUCATION

§ 2661. Statement of purposes

The purpose of this subchapter is to encourage and foster a balanced national development that provides opportunities for increased numbers of Americans to work and enjoy a high quality of life dispersed throughout our Nation by providing the essential knowledge necessary for successful programs of rural development. It is further the purpose of this subchapter—

(a) to provide multistate regional agencies, States, counties, cities, multicounty planning and development of districts, businesses, industries, organizations, Indian tribes on Federal and State reservations or other federally recognized Indian tribal groups, and others involved with public services and investments in rural areas or that provide or may provide employment in these areas the best available scientific, technical, economic, organizational, environmental, and management information and knowledge useful to them, and to assist and encourage them in the interpretation and application of this information to practical problems and needs in rural development;

(b) to provide research and investigations in all fields that have as their purpose the development of useful knowledge and information to assist those planning, carrying out, managing, or investing in facilities, services, businesses, or other enterprises, public and private, that may contribute to rural development;

(c) to enhance the capabilities of colleges and universities to perform the vital public service roles of research, transfer, and practical application of knowledge in support of rural development;

(d) to expand research on innovative approaches to small farm management and technology and extend training and technical assistance to small farmers so that they may fully utilize the best available knowledge on sound economic approaches to small farm operations.

(Pub. L. 92-419, title V, § 501, Aug. 30, 1972, 86 Stat. 671.)

§ 2662. Programs authorization; cooperation and coordination with colleges and universities

The Secretary of Agriculture (hereafter referred to as the "Secretary") is directed and authorized to conduct in cooperation and in coordination with colleges and universities the following programs to carry out the purposes of this subchapter.

(a) Rural development extension programs

Rural development extension programs shall consist of the collection, interpretation, and dissemination of useful information and knowledge from research and other sources to units of multistate regional agencies, State, county, municipal, and other units of government, multicounty planning and development districts, organizations of citizens contributing to rural development, business, Indian tribes on Federal or State reservations or other federally recognized Indian tribal groups, or industries that employ or may employ people in rural areas. These programs also shall include technical services and educational activity, including instruction for persons not enrolled as students in colleges or universities, to facilitate and encourage the use and practical application of this information. These programs also may include feasibility studies and planning assistance.

(b) Rural development research

Rural development research shall consist of research, investigations, and basic feasibility studies in any field or discipline which may develop principles, facts, scientific and technical knowledge, new technology, and other information that may be useful to agencies of Federal, State, and local government, industries in rural areas, Indian tribes on Federal and State reservations or other federally recognized Indian tribal groups, and other organizations involved in rural development programs and activities in planning and carrying out such programs and activities or otherwise be practical and useful in achieving increased rural development.

(c) Small farm extension, research, and development programs

Small farm extension and research and development programs shall consist of extension and research programs with respect to new approaches for small farms in management, agricultural production techniques, farm machinery technology, new products, cooperative agricultural marketing, and distribution suitable to the economic development of family size farm operations.

(Pub. L. 92-419, title V, § 502, Aug. 30, 1972, 86 Stat. 671.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2663, 2664 of this title.

§ 2663. Program moneys.

(a) Authorization of appropriations

There are hereby authorized to be appropriated to carry out the purposes of this subchapter not to exceed $10,000,000 for the fiscal year ending June 30, 1974, not to exceed $15,000,000 for the fiscal year ending June 30, 1975, not to exceed $20,000,000 for the fiscal year ending June 30, 1976, not to exceed $5,000,000 for the period July 1, 1976, through September 30, 1976, and not to exceed $20,000,000 for each of the three fiscal years during the period beginning October 1, 1976, and ending September 30, 1979.

(b) Allocation of funds

Such sums as the Congress shall appropriate to carry out the purposes of this subchapter pursuant to subsection (a) of this section shall be distributed by the Secretary as follows:

(1) 4 per centum to be used by the Secretary for Federal administration, national coordination, and program assistance to the States;

(2) 10 per centum to be allocated by the Secretary to States to finance work serving two or more States in which universities in two or more States cooperate or which is conducted by one university to serve two or more States;

(3) 20 per centum shall be allocated equally

(3) 20 per centum shall be allocated equally among the States;

(4) 66 per centum shall be allocated to each State, as follows: One-half in an amount which bears the same ratio to the total amount to be allotted as the rural population of the States bears to the total rural population of all the States as determined by the last preceding decennial census current at the time each such additional sum is first appropriated; and one-half in an amount which bears the same ratio to the total amount to be allotted as the farm population of the State bears to the total farm population of all the States as determined by the last preceding decennial census current at the time such additional sum is first appropriated.

(c) Use of funds

Funds appropriated under this subchapter may be used to pay salaries and other expenses of personnel employed to carry out the functions authorized by this subchapter, to obtain necessary supplies, equipment, services, and rent, repair, and maintenance of other facilities needed, but may not be used to purchase or construct buildings.

(d) Contingencies for payment of funds; fiscal year availability; budget and accounting

Payment of funds to any State for programs authorized under section 2662(a), (b), and (c) of this title shall be contingent upon the Secretary's approval of an annual plan and budget for programs conducted under each part and compliance with such regulations as the Secretary may issue under this subchapter. Funds shall be available for use by the State in the fiscal year for which appropriated and the next fiscal year following the year for which appropriated. Funds shall be budgeted and accounted for on such forms and at such times as the Secretary shall prescribe.

(e) Financing programs at universities other than universities responsible for administration of programs

Funds provided to each State under this subchapter may be used to finance programs through or at private and publicly supported colleges and universities other than the university responsible for administering the programs authorized by this subchapter.

(Pub. L. 92-419, title V, § 503, Aug. 30, 1972, 86 Stat. 672; Pub. L. 94-259, § 1, Apr. 5, 1976, 90 Stat. 314.)

AMENDMENTS

1976—Subsec. (a). Pub. L. 94-259 substituted "are" for "is", struck out "and" changed the period to a comma, and added "not to exceed $5,000,000 for the period July 1, 1976, through September 30, 1976, and not to exceed $20,000,000 for each of the three fiscal years during the period beginning October 1, 1976, and ending September 30, 1979".

§ 2664. Cooperating colleges and universities

(a) Coordinated State program

Each of the programs authorized by this subchapter shall be organized and conducted by one or more colleges or universities in each State so as to provide a coordinated program in each State.

(b) State program administration; payment of funds

To assure national coordination with programs under the Smith-Lever Act of 1914 [7 U.S.C. 341 et seq.] and the Hatch Act (as amended, August 11, 1955) [7 U.S.C. 361a et seq.], administration of each State program shall be a responsibility of the institution or university accepting the benefits of the Morrill Act of 1862 (12 Stat. 503) as amended [7 U.S.C. 301 et seq.]. Such administration shall be in association with the programs conducted under the Smith-Lever Act and the Hatch Act. The Secretary shall pay funds available to each State to said institution or university.

(c) Institutions eligible for programs; program proposals, approval

All private and publicly supported colleges and universities in a State including the land-grant colleges of 1890 (26 Stat. 417) [7 U.S.C. 321 et seq.] shall be eligible to conduct or participate in conducting programs authorized under this subchapter. Officials at universities or colleges other than those responsible for administering programs authorized by this subchapter who wish to participate in these programs shall submit program proposals to the university officials responsible for administering these programs and they shall be responsible for approval of said proposals.

(d) Officials; designation for State program administration

The university in each State responsible for administering the program authorized by this subchapter shall designate an official who shall be responsible for programs authorized by each part of section 2662 of this title and an official who shall be responsible for the overall coordination of said programs.

(e) State Rural Development Advisory Council; appointment; membership; chairman; engineering member; representation of interests; function of Council

The chief administrative officer of the university in each State responsible for administering the program authorized by this subchapter shall appoint a State Rural Development Advisory Council, consisting of not more than fifteen members. The administrative head of agriculture of that university shall serve as chairman. The administrative head of a principal school of engineering in the State shall be a member. There shall be at least ten additional members who shall include persons representing farmers, business, labor, banking, local government, multicounty planning and development districts, public and private colleges and Federal and State agencies involved in rural development.

It shall be the function of the Council to review and approve annual program plans conducted under this subchapter and to advise the chief administrative officer of the university on matters pertaining to the program authorized.

(Pub. L. 92-419, title V, § 504, Aug. 30, 1972, 86 Stat. 673.)

REFERENCES IN TEXT

The Smith-Lever Act of 1914, referred to in subsec. (b), is act May 8, 1914, ch. 79, 38 Stat. 372, as amended, which is classified generally to subchapter IV (§ 341 et seq.) of chapter 13 of this title.

The Hatch Act, referred to in subsec. (b), is act Mar. 2, 1887, ch. 314, 24 Stat. 410, as amended, which is classified generally to sections 361a to 361i of this title.

The Morrill Act of 1862, referred to in subsec. (b), is act July 2, 1962, ch. 130, 12 Stat. 503, as amended, which is classified generally to subchapter I (§ 301 et seq.) of chapter 13 of this title.

The land grant colleges of 1890 (26 Stat. 417), referred to in subsec. (c), are the land grant colleges established under act Aug. 30, 1890, ch. 841, 26 Stat. 417, as amended, popularly known as the "Agricultural College Act of 1890" and also as the "Second Morrill Act", which is classified generally to subchapter II (§ 321 et seq.) of chapter 13 of this title.

For complete classification of these Acts to the Code, see Tables volume.

TERMINATION OF ADVISORY COUNCILS

Advisory Councils in existence on Jan. 5, 1973, to terminate not later than the expiration of the two-year period following Jan. 5, 1973, unless, in the case of a Council established by the President or an officer of the Federal Government, such Council is renewed by appropriate action prior to the expiration of such two-year period, or in the case of a Council established by the Congress, its duration is otherwise provided by law, see sections 3(2) and 14 of Pub. L. 92-463, Oct. 6, 1972, 86 Stat. 770, 776, set out in the Appendix to Title 5, Government Organization and Employees.

§ 2665. Agreements and plans

(a) Memorandum of understanding

Programs authorized under this subchapter shall be conducted as mutually agreed upon by the Secretary and the university responsible for administering said programs in a memorandum of understanding which shall provide for the coordination of the programs authorized under this subchapter, coordination of these programs with other rural development programs of Federal, State, and local government, and such other matters as the Secretary shall determine.

(b) Annual program plan

Annually said university shall submit to the Secretary an annual program plan for programs authorized under this subchapter which shall include plans for the programs to be conducted by each cooperating and participating university or college and such other information as the Secretary shall prescribe. Each State program must include research and extension activities directed toward identification of programs which are likely to have the greatest impact upon accomplishing the objectives of rural development in both the short and longer term and the use of these studies to support the State's comprehensive program to be supported under this subchapter.

(Pub. L. 92-419, title V, § 505, Aug. 30, 1972, 86 Stat. 673.)

§ 2666. Withholding funds; report to President; separate account in Treasury; State appeal to Congress; covering moneys into Treasury; State money replacement

When the Secretary determines that a State is not eligible to receive part or all of the funds to which it is otherwise entitled because of a failure to satisfy conditions specified in this subchapter, or because of a failure to comply with regulations issued by the Secretary under this subchapter, the facts and reasons therefor shall be reported to the President, and the amount involved shall be kept separate in the Treasury until the expiration of the Congress next succeeding a session of the legislature of the State from which funds have been withheld in order that the State may, if it should so desire, appeal to Congress from the determination of the Secretary. If the next Congress shall not direct such sum to be paid, it shall be covered into the Treasury. If any portion of the moneys received by the designated officers of any State for the support and maintenance of programs authorized by this subchapter shall by any action or contingency be diminished or lost, or be misapplied, it shall be replaced by said State.

(Pub. L. 92-419, title V, § 506, Aug. 30, 1972, 86 Stat. 674.)

§ 2667. Definitions

For the purposes of this subchapter—

(a) "Rural development" means the planning, financing, and development of facilities and services in rural areas that contribute to making these areas desirable places in which to live and make private and business investments; the planning, development, and expansion of business and industry in rural areas to provide increased employment and income; the planning, development, conservation, and use of land, water, and other natural resources of rural areas to maintain or enhance the quality of the environment for people and business in rural areas; and processes and procedures that have said objectives as their major purposes.

(b) The word "State" means the several States and the Commonwealth of Puerto Rico.

(Pub. L. 92-419, title V, § 507, Aug. 30, 1972, 86 Stat. 674.)

§ 2668. Regulations

The Secretary is authorized to issue such regulations as may be necessary to carry out the provisions of this subchapter.

(Pub. L. 92-419, title V, § 508, Aug. 30, 1972, 86 Stat. 674.)

CHAPTER 60—EGG RESEARCH AND CONSUMER INFORMATION

Sec.
2701. Congressional findings and declaration of policy.
2702. Definitions.
2703. Orders of Secretary to egg producers, etc.
2704. Notice and hearing upon proposed orders.
2705. Findings and issuance of orders.
2706. Permissive terms and conditions in orders.
(a) Advertising, sales promotion, and consumer education plans or projects; prohibition on reference to private brand or trade name and use of unfair or deceptive acts or practices.
(b) Research, marketing, and development projects and studies.
(c) Recordkeeping and reporting requirements; disclosure of confidential information; violations; penalties.
(d) Incidental and necessary terms and conditions.
2707. Required terms and conditions in orders.
(a) Egg Board; establishment; appointment and terms of membership; powers and duties.

Sec.

(b) Composition of Board.
(c) Advertising, sales promotion, consumer education, and research and development plans or projects; development and submittal to Secretary by Board.
(d) Budgets; submittal to Secretary by Board.
(e) Assessment payments by egg producers to egg handlers; implementation pursuant to order of Board; determination of amount; collection of assessment; rate limitation; maintenance of suit for collection.
(f) Recordkeeping and reporting requirements; accounting by Board.
(g) Contracts or agreements by Board for implementation of orders and payment of costs; required provisions.
(h) Restriction on use of funds collected by Board for political purposes.
(i) Compensation and expenses of members of Board.

2708. Referendum and egg producer approval of orders.
2709. Termination or suspension of orders.
(a) Authority of Secretary.
(b) Referendum to terminate or suspend; eligible voters; requirements for approval; termination or suspension date.
(c) Termination or suspension not to be considered as order.
2710. Applicability of provisions to amendments to orders.
2711. Exempted egg producers and breeding hen flocks; conditions and procedures.
2712. Refund of assessment from Egg Board; procedures.
2713. Administrative review of orders; petition; hearing; judicial review.
2714. Enforcement of orders; referral of civil actions to Attorney General; penalties for willful violations; availability of additional remedies.
2715. Certification of organizations; required contents of report as criteria.
2716. Regulations.
2717. Investigations by Secretary; oaths and affirmations; subpenas; judicial enforcement; contempt proceedings; service of process.
2718. Authorization of appropriations.

§ 2701. Congressional findings and declaration of policy

Eggs constitute one of the basic, natural foods in the diet. They are produced by many individual egg producers throughout the United States. Egg products, spent fowl, and products of spent fowl are derivatives of egg production. These products move in interstate and foreign commerce and those which do not move in such channels of commerce directly burden or affect interstate commerce of these products. The maintenance and expansion of existing markets and the development of new or improved markets and uses are vital to the welfare of egg producers and those concerned with marketing, using, and processing eggs as well as the general economy of the Nation. The production and marketing of these products by numerous individual egg producers have prevented the development and carrying out of adequate and coordinated programs of research and promotion necessary for the maintenance of markets and the development of new products of, and markets for, eggs, egg products, spent fowl, and products of spent fowl. Without an effective and coordinated method of assuring cooperative and collective action in providing for and financing such programs, individual egg producers are unable to provide, obtain, or carry out the research, consumer and producer information, and promotion necessary to maintain and improve markets for any or all of these products.

It has long been recognized that it is in the public interest to provide an adequate, steady supply of fresh eggs readily available to the consumers of the Nation. Maintenance of markets and the development of new markets, both domestic and foreign, are essential to the egg industry if the consumers of eggs, egg products, spent fowl, or products of spent fowl are to be assured of an adequate, steady supply of such products.

It is therefore declared to be the policy of the Congress and the purpose of this chapter that it is essential and in the public interest, through the exercise of the powers provided herein, to authorize and enable the establishment of an orderly procedure for the development and the financing through an adequate assessment, an effective and continuous coordinated program of research, consumer and producer education, and promotion designed to strengthen the egg industry's position in the marketplace, and maintain and expand domestic and foreign markets and uses for eggs, egg products, spent fowl, and products of spent fowl of the United States. Nothing in this chapter shall be construed to mean, or provide for, control of production or otherwise limit the right of individual egg producers to produce commercial eggs.

(Pub. L. 93-428, § 2, Oct. 1, 1974, 88 Stat. 1171.)

Effective Date

Section 21 of Pub. L. 93-428 provided that: "This Act [which enacted this chapter and provisions set out as notes under this section] shall take effect upon enactment [Oct. 1, 1974]".

Short Title

Section 1 of Pub. L. 93-428 provided: "That this Act [which enacted this chapter and provisions set out as notes under this section] shall be known as the 'Egg Research and Consumer Information Act'."

Separability of Provisions

Section 19 of Pub. L. 93-428 provided that: "If any provision of this Act [which enacted this chapter and provisions set out as notes under this section] or the application thereof to any person or circumstances is held invalid, the validity of the remainder of the Act and of the application of such provision to other persons and circumstances shall not be affected thereby".

§ 2702. Definitions

As used in this chapter—

(a) The term "Secretary" means the Secretary of Agriculture or any other officer or employee of the Department of Agriculture to whom there has heretofore been delegated, or to whom there may hereafter be delegated, the authority to act in his stead.

(b) The term "person" means any individual, group of individuals, partnership, corporation, association, cooperative, or any other entity.

(c) The term "commercial eggs" or "eggs" means eggs from domesticated chickens which

are sold for human consumption either in shell egg form or for further processing into egg products.

(d) The term "hen" or "laying hen" means a domesticated female chicken twenty weeks of age or over, raised primarily for the production of commercial eggs.

(e) The term "egg producer" means the person owning laying hens engaged in the production of commercial eggs.

(f) The term "case" means a standard shipping package containing thirty dozen eggs.

(g) The term "hatching eggs" means eggs intended for use by hatcheries for the production of baby chicks.

(h) The term "United States" means the forty-eight contiguous States of the United States of America and the District of Columbia.

(i) The term "promotion" means any action, including paid advertising, to advance the image or desirability of eggs, egg products, spent fowl, or products of spent fowl.

(j) The term "research" means any type of research to advance the image, desirability, marketability, production, or quality of eggs, egg products, spent fowl, or products of spent fowl.

(k) The term "consumer education" means any action to advance the image or desirability of eggs, egg products, spent fowl, or products of spent fowl.

(*l*) The term "marketing" means the sale or other disposition of commercial eggs, egg products, spent fowl, or products of spent fowl, in any channel of commerce.

(m) The term "commerce" means interstate, foreign, or intrastate commerce.

(n) The term "egg products" means products produced, in whole or in part, from eggs.

(*o*) The term "spent fowl" means hens which have been in production of commercial eggs and have been removed from such production for slaughter.

(p) The term "products of spent fowl" means commercial products produced from spent fowl.

(q) The term "hatchery operator" means any person engaged in the production of egg-type baby chicks.

(r) The term "started pullet" means a hen less than twenty weeks of age.

(s) The term "started pullet dealer" means any person engaged in the sale of started pullets.

(t) The term "handler" means any person, specified in the order or the rules and regulations issued thereunder, who receives or otherwise acquires eggs from an egg producer, and processes, prepares for marketing, or markets, such eggs, including eggs of his own production.

(Pub. L. 93-428, § 3, Oct. 1, 1974, 88 Stat. 1172.)

§ 2703. Orders of Secretary to egg producers, etc.

To effectuate the declared policy of this chapter, the Secretary shall, subject to the provisions of this chapter, issue and from time to time amend, orders applicable to persons engaged in the hatching and/or sale of egg-type baby chicks and started pullets, persons engaged in the production of commercial eggs and persons who receive or otherwise acquire eggs from such persons and who process, prepare for market, or market such eggs, including eggs of their own production, and persons engaged in the purchase, sale or processing of spent fowl. Such orders shall be applicable to all production or marketing areas, or both, in the United States.

(Pub. L. 93-428, § 4, Oct. 1, 1974, 88 Stat. 1172.)

§ 2704. Notice and hearing upon proposed orders

Whenever the Secretary has reason to believe that the issuance of an order will tend to effectuate the declared policy of this chapter, he shall give due notice and opportunity for hearing upon a proposed order. Such hearing may be requested and proposal for an order submitted by an organization certified pursuant to section 2715 of this title, or by any interested person affected by the provisions of this chapter, including the Secretary.

(Pub. L. 93-428, § 5, Oct. 1, 1974, 88 Stat. 1173.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2705, 2715 of this title.

§ 2705. Findings and issuance of orders

After notice and opportunity for hearing as provided in section 2704 of this title, the Secretary shall issue an order if he finds, and sets forth in such order, upon the evidence introduced at such hearing, that the issuance of such order and all the terms and conditions thereof will tend to effectuate the declared policy of this chapter.

(Pub. L. 93-428, § 6, Oct. 1, 1974, 88 Stat. 1173.)

§ 2706. Permissive terms and conditions in orders

Order issued pursuant to this chapter shall contain one or more of the following terms and conditions, and except as provided in section 2707 of this title, no others.

(a) Advertising, sales promotion, and consumer education plans or projects; prohibition on reference to private brand or trade name and use of unfair or deceptive acts or practices

Providing for the establishment, issuance, effectuation, and administration of appropriate plans or projects for advertising, sales promotion, and consumer education with respect to the use of eggs, egg products, spent fowl, and products of spent fowl, and for the disbursement of necessary funds for such purposes: *Provided, however,* That any such plan or project shall be directed toward increasing the general demand for eggs, egg products, spent fowl, or products of spent fowl. No reference to a private brand or trade name shall be made if the Secretary determines that such reference will result in undue discrimination against eggs, egg products, spent fowl, or products of spent fowl of other persons: *And provided further,* That no such advertising, consumer education, or sales promotion programs shall make use of unfair or deceptive acts or practices in behalf of eggs, egg products, spent fowl, or products of spent fowl or unfair or deceptive acts or practices with respect to quality, value, or use of any competing product.

(b) Research, marketing, and development projects and studies

Providing for, establishing, and carrying on research, marketing, and development projects, and studies with respect to sale, distribution, marketing, utilization, or production of eggs, egg products, spent fowl, and products of spent fowl, and the creation of new products thereof, to the end that the marketing and utilization of eggs, egg products, spent fowl, and products of spent fowl may be encouraged, expanded, improved or made more acceptable, and the data collected by such activities may be disseminated and for the disbursement of necessary funds for such purposes.

(c) Recordkeeping and reporting requirements; disclosure of confidential information; violations; penalties

Providing that hatchery operators, persons engaged in the sale of egg-type baby chicks and started pullet dealers, persons engaged in the production of commercial eggs and persons who receive or otherwise acquire eggs from such persons and who process, prepare for market, or market such eggs, including eggs of their own production, and persons engaged in the purchase, sale, or processing of spent fowl, maintain and make available for the inspection such books and records as may be required by any order issued pursuant to this chapter and for the filing of reports by such persons at the time, in the manner, and having content prescribed by the order, to the end that information and data shall be made available to the Egg Board and to the Secretary which is appropriate or necessary to the effectuation, administration or enforcement of this chapter, or of any order or regulation issued pursuant to this chapter: *Provided, however,* That all information so obtained shall be kept confidential by all officers and employees of the Department of Agriculture, the Egg Board, and by all officers and employees of contracting agencies having access to such information, and only such information so furnished or acquired as the Secretary deems relevant shall be disclosed by them, and then only in a suit or administrative hearing brought at the direction, or upon the request, of the Secretary, or to which he or any officer of the United States is a party, and involving the order with reference to which the information so to be disclosed was furnished or acquired. Nothing in this section shall be deemed to prohibit (1) the issuance of general statements based upon the reports of the number of persons subject to an order or statistical data collected therefrom, which statements do not identify the information furnished by any person, (2) the publication, by the direction of the Secretary, of general statements relating to refunds made by the Egg Board during any specific period, or (3) the publication by direction of the Secretary of the name of any person violating any order, together with a statement of the particular provisions of the order violated by such person. Any such officer or employee violating the provision of this subsection shall, upon conviction, be subjected to a fine of not more than $1,000 or to imprisonment for not more than one year, or to both, and if an officer or employee of the Egg Board or Department of Agriculture shall be removed from office.

(d) Incidental and necessary terms and conditions

Terms and conditions incidental to and not inconsistent with the terms and conditions specified in this chapter and necessary to effectuate the other provisions of such order.

(Pub. L. 93-428, § 7, Oct. 1, 1974, 88 Stat. 1173.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2707 of this title.

§ 2707. Required terms and conditions in orders

Orders issued pursuant to this chapter shall contain the following conditions:

(a) Egg Board; establishment; appointment and terms of membership; powers and duties

Providing for the establishment and appointment, by the Secretary, of an Egg Board which shall consist of not more than eighteen members, and alternates therefor, and defining its powers and duties which shall include only the powers (1) to administer such order in accordance with its terms and provisions, (2) to make rules and regulations to effectuate the terms and provisions of such order, (3) to receive, investigate and report to the Secretary complaints of violations of such order, and (4) to recommend to the Secretary amendments to such order. The term of an appointment to the Egg Board shall be for two years with no member serving more than three consecutive terms, except that initial appointment shall be proportionately for two-year and three-year terms.

(b) Composition of Board

Providing that the Egg Board, and alternates therefor, shall be composed of egg producers or representatives of egg producers appointed by the Secretary from nominations submitted by eligible organizations, associations, or cooperatives, and certified pursuant to section 2715 of this title, or, if the Secretary determines that a substantial number of egg producers are not members of or their interests are not represented by any such eligible organizations, associations or cooperatives, then from nominations made by such egg producers in the manner authorized by the Secretary, so that the representation of egg producers on the Board shall reflect, to the extent practicable, the proportion of eggs produced in each geographic area of the United States as defined by the Secretary: *Provided, however,* That each such egg producing geographic area shall be entitled to at least one representative on the Egg Board.

(c) Advertising, sales promotion, consumer education, and research and development plans or projects; development and submittal to Secretary by Board

Providing that the Egg Board shall, subject to the provisions of subsection (g) of this section, develop and submit to the Secretary for his approval any advertising, sales promotion, consumer education, research, and development plans or projects, and that any such plan or project must be approved by the Secretary before becoming effective.

(d) Budgets; submittal to Secretary by Board

Providing that the Egg Board shall, subject to the provisions of subsection (g) of this section, submit to the Secretary for his approval budgets on a fiscal period basis of its anticipated expenses and disbursements in the administration of the order, including probable costs of advertising, promotion, consumer education, research, and development projects.

(e) Assessment payments by egg producers to egg handlers; implementation pursuant to order of Board; determination of amount; collection of assessment; rate limitation; maintenance of suit for collection

Providing that each egg producer shall pay to the handler of eggs designated by the order of the Egg Board pursuant to regulations issued under the order, an assessment based upon the number of cases of commercial eggs handled for the account of such producer, in the manner as prescribed by the order, for such expenses and expenditures—including provision for a reasonable reserve and those administrative costs incurred by the Department after an order has been promulgated under this chapter—as the Secretary finds are reasonable and likely to be incurred by the Egg Board under the order during any period specified by him. Such handler shall collect such assessment from the producer and shall pay the same to the Egg Board in the manner as prescribed by the order. The rate of assessment prescribed by the order shall not exceed 5 cents per case of commercial eggs or the equivalent thereof. To facilitate the collection of such assessments, the order of the Egg Board may designate different handlers or classes of handlers to recognize differences in marketing practices or procedures utilized in the industry. The Secretary may maintain a suit against any person subject to the order for the collection of such assessment, and the several district courts of the United States are hereby vested with jurisdiction to entertain such suits regardless of the amount in controversy.

(f) Recordkeeping and reporting requirements; accounting by Board

Providing that the Egg Board shall maintain such books and records and prepare and submit such reports from time to time, to the Secretary as he may prescribe, and for appropriate accounting by the Egg Board with respect to the receipt and disbursement of all funds entrusted to it.

(g) Contracts or agreements by Board for implementation of orders and payment of costs; required provisions

Providing that the Egg Board, with the approval of the Secretary, may enter into contracts or agreements for development and carrying out of the activities authorized under the order pursuant to section 2706(a) and (b) of this title and for the payment of the cost thereof with funds collected pursuant to the order. Any such contract or agreement shall provide that such contractors shall develop and submit to the Egg Board a plan or project together with a budget or budgets which shall show estimated costs to be incurred for such plan or project, and that any such plan or project shall become effective upon the approval of the Secretary, and further, shall provide that the contracting party shall keep accurate records of all of its transactions and make periodic reports to the Egg Board of activities carried out and an accounting for funds received and expended, and such other reports as the Secretary may require.

(h) Restriction on use of funds collected by Board for political purposes

Providing that no funds collected by the Egg Board under the order shall in any manner be used for the purpose of influencing governmental policy or action, except as provided by subsection (a)(4) of this section.

(i) Compensation and expenses of members of Board

Providing that the Board members, and alternates therefor, shall serve without compensation, but shall be reimbursed for their reasonable expenses incurred in performing their duties as members of the Board.

(Pub. L. 93-428, § 8, Oct. 1, 1974, 88 Stat. 1174.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2706, 2715 of this title.

§ 2708. Referendum and egg producer approval of orders

The Secretary shall conduct a referendum among egg producers not exempt hereunder who, during a representative period determined by the Secretary, have been engaged in the production of commercial eggs, for the purpose of ascertaining whether the issuance of an order is approved or favored by such producers. No order issued pursuant to this chapter shall be effective unless the Secretary determines that the issuance of such order is approved or favored by not less than two-thirds of the producers voting in such referendum, or by a majority of the producers voting in such referendum if such majority produced not less than two-thirds of the commercial eggs produced during a representative period defined by the Secretary.

(Pub. L. 93-428, § 9, Oct. 1, 1974, 88 Stat. 1176.)

§ 2709. Termination or suspension of orders

(a) Authority of Secretary

The Secretary shall, whenever he finds that any order issued under this chapter, or any provisions thereof, obstructs or does not tend to effectuate the declared policy of this chapter, terminate or suspend the operation of such order or such provisions thereof.

(b) Referendum to terminate or suspend; eligible voters; requirements for approval; termination or suspension date

The Secretary may conduct a referendum at any time, and shall hold a referendum on request of 10 per centum or more of the number of egg producers voting in the referendum approving the order, to determine whether such producers favor the termination or suspension of the order, and he shall suspend or terminate such order six months after he determines that suspension or termination of the order is approved or favored by a majority of the egg producers voting in such referendum who, during a representative period determined by the Secre-

tary, have been engaged in the production of commercial eggs, and who produced more than 50 per centum of the volume of eggs produced by the egg producers voting in the referendum.

(c) Termination or suspension not to be considered as order

The termination or suspension of any order, or any provision thereof, shall not be considered an order within the meaning of this chapter.

(Pub. L. 93-428, § 10, Oct. 1, 1974, 88 Stat. 1176.)

§ 2710. Applicability of provisions to amendments to orders

The provisions of this chapter applicable to orders shall be applicable to amendments to orders.

(Pub. L. 93-428, § 11, Oct. 1, 1974, 88 Stat. 1176.)

§ 2711. Exempted egg producers and breeding hen flocks; conditions and procedures

The following may be exempt from specific provisions of this chapter under such conditions and procedures as may be prescribed in the order or rules and regulations issued thereunder:

(a) Any egg producer whose aggregate number of laying hens at any time during a three-consecutive-month period immediately prior to the date assessments are due and payable has not exceeded three thousand laying hens.

(b) Any flock of breeding hens whose production of eggs is primarily utilized for the hatching of baby chicks.

(Pub. L. 93-428, § 12, Oct. 1, 1974, 88 Stat. 1176.)

§ 2712. Refund of assessment from Egg Board; procedures

Notwithstanding any other provisions of this chapter, any egg producer against whose commercial eggs any assessment is made and collected from him under authority of this chapter and who is not in favor of supporting the programs as provided for herein shall have the right to demand and receive from the Egg Board a refund of such assessment: *Provided,* That such demand shall be made personally by such producer in accordance with regulations and on a form and within a time period prescribed by the Board and approved by the Secretary but in no event more than ninety days after the end of the month in which the assessments are due and collectable, and upon submission of proof satisfactory to the Board that the producer paid the assessment for which refund is sought, and any such refund shall be made within sixty days after demand is received therefore.

(Pub. L. 93-428, § 13, Oct. 1, 1974, 88 Stat. 1177.)

§ 2713. Administrative review of orders; petition; hearing; judicial review

(a) Any person subject to any order may file a written petition with the Secretary, stating that any such order or any provisions of such order or any obligations imposed in connection therewith is not in accordance with law and praying for a modification thereof or to be exempted therefrom. He shall thereupon be given an opportunity for a hearing upon such petition, in accordance with regulations made by the Secretary. After such hearing, the Secretary shall make a ruling upon the prayer of such petition which shall be final, if in accordance with law.

(b) The district courts of the United States in any district in which such person is an inhabitant, or has his principal place of business, are hereby vested with jurisdiction to review such ruling, provided a complaint for that purpose is filed within twenty days from the date of the entry of such ruling. Service of process in such proceedings may be had upon the Secretary by delivering to him a copy of the complaint. If the court determines that such ruling is not in accordance with law, it shall remand such proceedings to the Secretary with directions either (1) to make such ruling as the court shall determine to be in accordance with law, or (2) to take such further proceedings as, in its opinion, the law requires. The pendency of proceedings instituted pursuant to subsection (a) of this section shall not impede, hinder, or delay the United States or the Secretary from obtaining relief pursuant to section 2714(a) of this title.

(Pub. L. 93-428, § 14, Oct. 1, 1974, 88 Stat. 1177.)

§ 2714. Enforcement of orders; referral of civil actions to Attorney General; penalties for willful violations; availability of additional remedies

(a) The several district courts of the United States are vested with jurisdiction specifically to enforce, and to prevent and restrain any person from violating any order or regulation made or issued pursuant to this chapter. Any civil action authorized to be brought under this chapter shall be referred to the Attorney General for appropriate action: *Provided,* That nothing in this chapter shall be construed as requiring the Secretary to refer to the Attorney General minor violations of this chapter whenever he believes that the administration and enforcement of the program would be adequately served by suitable written notice or warning to any person committing such violation.

(b) Any egg producer or other person who willfully violates any provision of any order issued by the Secretary under this chapter, or who willfully fails or refuses to collect or remit any assessment or fee duly required of him thereunder, shall be liable to a penalty of not more than $1,000 for each such offense which shall accrue to the United States and may be recovered in a civil suit brought by the United States: *Provided,* That subsections (a) and (b) of this section shall be in addition to, and not exclusive of, the remedies provided now or hereafter existing at law or in equity.

(Pub. L. 93-428, § 15, Oct. 1, 1974, 88 Stat. 1177.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2713 of this title.

§ 2715. Certification of organizations; required contents of report as criteria

The eligibility of any organization to represent commercial egg producers of any egg producing area of the United States to request the

issuance of an order under section 2704 of this title, and to participate in the making of nominations under section 2707(b) of this title shall be certified by the Secretary. Certification shall be based, in addition to other available information, upon a factual report submitted by the organization which shall contain information deemed relevant and specified by the Secretary for the making of such determination, including, but not limited to, the following:

(a) Geographic territory covered by the organization's active membership.

(b) Nature and size of the organization's active membership, proportion of total of such active membership accounted for by producers of commercial eggs, a chart showing the egg production by State in which the organization has members, and the volume of commercial eggs produced by the organization's active membership in each such State,

(c) The extent to which the commercial egg producer membership of such organization is represented in setting the organization's policies,

(d) Evidence of stability and permanency of the organization,

(e) Sources from which the organization's operating funds are derived,

(f) Functions of the organization, and

(g) The organization's ability and willingness to further the aims and objectives of this chapter: *Provided, however,* That the primary consideration in determining the eligibility of an organization shall be whether its commercial egg producer membership consists of a substantial number of egg producers who produce a substantial volume of commercial eggs. The Secretary shall certify any organization which he finds to be eligible under this section and his determination as to eligibility shall be final. Where more than one organization is certified in any geographic area, such organizations may caucus to determine the area's nominations under section 2707(b) of this title.

(Pub. L. 93-428, § 16, Oct. 1, 1974, 88 Stat. 1178.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2704, 2707 of this title.

§ 2716. Regulations

The Secretary is authorized to make regulations with force and effect of law, as may be necessary to carry out the provisions of this chapter and the powers vested in him by this chapter.

(Pub. L. 93-428, § 17, Oct. 1, 1974, 88 Stat. 1178.)

§ 2717. Investigations by Secretary; oaths and affirmations; subpenas; judicial enforcement; contempt proceedings; service of process

The Secretary may make such investigations as he deems necessary for the effective carrying out of his responsibilities under this chapter or to determine whether an egg producer, processor, or other seller of commercial eggs or any other person has engaged or is about to engage in any acts or practices which constitute or will constitute a violation of any provisions of this chapter, or of any order, or rule or regulation issued under this chapter. For the purpose of such investigation, the Secretary is empowered to administer oaths and affirmations, subpena witnesses, compel their attendance, take evidence, and require the production of any books, papers, and documents which are relevant to the inquiry. Such attendance of witnesses and the production of any such records may be required from any place in the United States. In case of contumacy by, or refusal to obey a subpena to, any person, including an egg producer, the Secretary may invoke the aid of any court of the United States within the jurisdiction of which such investigation or proceeding is carried on, or where such person resides or carries on business, in requiring the attendance and testimony of witnesses and the production of books, papers, and documents; and such court may issue an order requiring such person to appear before the Secretary, there to produce records, if so ordered, or to give testimony touching the matter under investigation. Any failure to obey such order of the court may be punished by such court as a contempt thereof. All process in any such case may be served in the judicial district whereof such person is an inhabitant or wherever he may be found.

(Pub. L. 93-428, § 18, Oct. 1, 1974, 88 Stat. 1178.)

§ 2718. Authorization of appropriations

There is hereby authorized to be appropriated out of any money in the Treasury not otherwise appropriated such funds as are necessary to carry out the provisions of this chapter. The funds so appropriated shall not be available for payment of the expenses or expenditures of the Egg Board in administering any provisions of any order issued pursuant to the terms of this chapter.

(Pub. L. 93-428, § 20, Oct. 1, 1974, 88 Stat. 1179.)

CHAPTER 61—NOXIOUS WEEDS

Sec.
2801. Congressional findings.
2802. Definitions.
2803. Movement of noxious weeds into or through the United States or interstate.
- (a) Permits; regulations.
- (b) Refusal of permit to prevent danger of dissemination.
- (c) Unlawful sale, purchase, and transportation, and advertisements for unlawful sale, purchase, and transportation.

2804. Quarantine.
- (a) Regulations for inspection.
- (b) Temporary quarantine of areas suspected of infestation; maximum period.
- (c) Promulgation after determination of necessity at public hearing.

2805. Measures to prevent dissemination.
- (a) Emergency disposal of infested products and articles.
- (b) Orders requiring disposal by owner; enforcement.
- (c) Destruction, export, or return as the least drastic action.
- (d) Actions against United States by owners; limitations; just compensation for unlawful disposal.

2806. Warrantless search of persons and goods; search of premises with warrants; issuance and execution of warrants.

Sec.
2807. Penalties.
2808. Cooperation with other Federal, State, and local agencies.
2809. Regulations.
2810. Authorization of appropriations.
2811. Inapplicability to certain shipments.
2812. Inconsistent State and local laws.
2813. Separability of provisions.

§ 2801. Congressional findings

The importation or distribution in interstate commerce of noxious weeds, except under controlled conditions, allows the growth and spread of such weeds which interfere with the growth of useful plants, clog waterways and interfere with navigation, cause disease, or have other adverse effects upon man or his environment and therefore is detrimental to the agriculture and commerce of the United States and to the public health. The uncontrolled distribution within the United States of noxious weeds after their importation or interstate distribution has like detrimental effects and allowing such distribution encourages and facilitates the burdening and obstructing of interstate and foreign commerce, and is inimical to the public interest. Accordingly, the Congress hereby determines that the regulation of transactions in, and movement of, noxious weeds as provided in this chapter is necessary to prevent and eliminate burdens upon and obstructions to interstate and foreign commerce and to protect the public welfare.

(Pub. L. 93-629, § 2, Jan. 3, 1975, 88 Stat. 2148.)

SHORT TITLE

Section 1 of Pub. L. 93-629 provided: "That this Act [enacting this chapter] may be cited as the 'Federal Noxious Weed Act of 1974'."

§ 2802. Definitions

As used in this chapter, except where the context otherwise requires:

(a) "Secretary" means the Secretary of Agriculture of the United States or any other person to whom authority may be delegated to act in his stead.

(b) "Authorized inspector" means any employee of the Department of Agriculture, or any employee of any other agency of the Federal Government or of any State or other governmental agency which is cooperating with the Department in administration of any provisions of this chapter, who is authorized by the Secretary to perform assigned duties under this chapter.

(c) "Noxious weed" means any living stage (including but not limited to, seeds and reproductive parts) of any parasitic or other plant of a kind, or subdivision of a kind, which is of foreign origin, is new to or not widely prevalent in the United States, and can directly or indirectly injure crops, other useful plants, livestock, or poultry or other interests of agriculture, including irrigation, or navigation or the fish and wildlife resources of the United States or the public health.

(d) "United States" means any of the States, territories, or districts of the United States.

(e) "Interstate" means from any State, territory, or district of the United States into or through any other State, territory, or district.

(f) "District" means the District of Columbia, the Commonwealth of Puerto Rico, or any possession of the United States.

(g) "Move" means deposit for transmission in the mails, ship, offer for shipment, offer for entry, import, receive for transportation, carry, or otherwise transport or move, or allow to be moved, by mail or otherwise.

(Pub. L. 93-629, § 3, Jan. 3, 1975, 88 Stat. 2148.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2809 of this title.

§ 2803. Movement of noxious weeds into or through the United States or interstate

(a) Permits; regulations

No person shall knowingly move any noxious weed, identified in a regulation promulgated by the Secretary, into or through the United States or interstate, unless such movement is authorized under general or specific permit from the Secretary and is made in accordance with such conditions as the Secretary may prescribe in the permit and in such regulations as he may promulgate under this chapter to prevent the dissemination into the United States, or interstate, of such noxious weeds.

(b) Refusal of permit to prevent danger of dissemination

The Secretary may refuse to issue a permit for the movement of any such noxious weed when, in his opinion, such movement would involve a danger of dissemination of such noxious weeds into the United States or interstate.

(c) Unlawful sale, purchase, and transportation, and advertisements for unlawful sale, purchase, and transportation

No person shall knowingly sell, purchase, barter, exchange, give, or receive any such noxious weed which has been moved in violation of subsection (a) of this section, or knowingly deliver or receive for transportation or transport, in interstate or foreign commerce, any advertisement to sell, purchase, barter, exchange, give, or receive any such noxious weed which is prohibited from movement in such commerce under this chapter.

(Pub. L. 93-629, § 4, Jan. 3, 1975, 88 Stat. 2149.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2807, 2809 of this title.

§ 2804. Quarantine

(a) Regulations for inspection

The Secretary may promulgate such quarantines and other regulations requiring inspection of products and articles of any character whatsoever and means of conveyance, specified in the regulations, as a condition of their movement into or through the United States and otherwise restricting or prohibiting such movement, as he deems necessary to prevent the dissemination into the United States of any noxious weeds, and it shall be unlawful for any person to move any products, articles, or means of conveyance into or through the United States contrary to any such regulation.

(b) Temporary quarantine of areas suspected of infestation; maximum period

Whenever the Secretary has reason to believe that an infestation of noxious weeds exist in any State, territory, or district, he may by regulation temporarily quarantine such jurisdiction, or a portion thereof, and by regulation may restrict or prohibit the interstate movement from the quarantined area of any products and articles of any character whatsoever and means of conveyance, capable of carrying such noxious weeds, and after promulgation of such quarantine and other regulations, it shall be unlawful for any person to move interstate from a quarantined area any such products, articles, or means of conveyance, specified in the regulations, except in accordance with such regulations: *Provided, however,* That such quarantine and regulations shall expire at the close of the ninetieth day after their promulgation.

(c) Promulgation after determination of necessity at public hearing

However, if, after public hearing, the Secretary determines, on the basis of the information received at the hearing and other information available to him, that such a quarantine and regulations are necessary in order to prevent the interstate spread of noxious weeds from any State, territory, or district in which he determines an infestation of noxious weeds exists, and to protect the agriculture, commerce, fish, or wildlife resources of the United States or the public health, he shall promulgate such quarantine and other regulations as he determines are appropriate for such purposes, and thereafter it shall be unlawful for any person to move interstate from any quarantined area any regulated products, articles, or means of conveyance except in accordance with such regulations.

(Pub. L. 93-629, § 5, Jan. 3, 1975, 88 Stat. 2149.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2807 of this title.

§ 2805. Measures to prevent dissemination

(a) Emergency disposal of infested products and articles

Except as provided in subsection (c) of this section, the Secretary may, whenever he deems it necessary as an emergency measure in order to prevent the dissemination of any noxious weed, seize, quarantine, treat, destroy, or otherwise dispose of, in such manner as he deems appropriate, any product or article of any character whatsoever, or means of conveyance, which is moving into or through the United States or interstate, in bond or otherwise, and which he has reason to believe is infested by any noxious weed or contains any such weed, or which has moved into the United States, or interstate, and which he has reason to believe was infested by or contained any noxious weed at the time of such movement; and any noxious weed, product, article, or means of conveyance which is moving into or through the United States, or interstate, or has moved into the United States, or interstate, in violation of this chapter or any regulation hereunder.

(b) Orders requiring disposal by owner; enforcement

Except as provided in subsection (c) of this section, the Secretary may order the owner of any product, article, means of conveyance, or noxious weed subject to disposal under subsection (a) of this section, or his agent, to treat, destroy, or make other disposal of such product, article, means of conveyance, or noxious weed, without cost to the Federal Government and in such manner as the Secretary deems appropriate. The Secretary may apply to the United States District Court, or to the United States Court of any territory or possession, for the judicial district in which such person resides or transacts business or in which the product, article, means of conveyance, or noxious weed is found, for enforcement of such order by injunction, mandatory or otherwise. Process in any such case may be served in any judicial district wherein the defendant resides or transacts business or may be found, and subpenas for witnesses who are required to attend a court in any judicial district in such a case may run to any other judicial district.

(c) Destruction, export, or return as the least drastic action

No product, article, means of conveyance, or noxious weed shall be destroyed, exported, or returned to shipping point of origin, or ordered to be destroyed, exported, or so returned under this section, unless in the opinion of the Secretary there is no less drastic action which would be adequate to prevent the dissemination of noxious weeds into the United States or interstate.

(d) Actions against United States by owners; limitations; just compensation for unlawful disposal

The owner of any product, article, means of conveyance, or noxious weed destroyed, or otherwise disposed of, by the Secretary under this section, may bring an action against the United States in the United States District Court for the District of Columbia, within one year after such destruction or disposal, and recover just compensation for such destruction or disposal of such product, article, means of conveyance, or noxious weed (not including compensation for loss due to delays incident to determining its eligibility for movement under this chapter) if the owner establishes that such destruction or disposal was not authorized under this chapter. Any judgment rendered in favor of such owner shall be paid out of the money in the Treasury appropriated for administration of this chapter.

(Pub. L. 93-629, § 6, Jan. 3, 1975, 88 Stat. 2149.)

§ 2806. Warrantless search of persons and goods; search of premises with warrants; issuance and execution of warrants

Any authorized inspector, when properly identified, shall have authority (a) without a warrant, to stop any person or means of conveyance moving into the United States, and inspect any noxious weeds and any products and articles of any character whatsoever, carried thereby, and inspect such means of conveyance, to determine whether such person or means of conveyance is moving any noxious weed, product, article, or means of conveyance contrary to this chapter or any regulation under this chap-

ter; (b) without a warrant, to stop any person or means of conveyance moving through the United States or interstate, and inspect any noxious weeds and any products and articles of any character whatsoever carried thereby, and inspect such means of conveyance, to determine whether such person or means of conveyance is moving any noxious weed, product, article, or means of conveyance contrary to this chapter or any regulation thereunder, if such inspector has probable cause to believe that such person or means of conveyance is moving any noxious weed regulated under this chapter; and (c) to enter, with a warrant, any premises in the United States, for purposes of any inspections or other actions necessary under this chapter. Any judge of the United States or of a court of record of any State, territory, or district, or a United States commissioner, may, within his respective jurisdiction, upon proper oath or affirmation showing probable cause to believe that there are on certain premises any products, articles, means of conveyance, or noxious weeds subject to this chapter, issue warrants for the entry of such premises for purposes of any inspection or other action necessary under this chapter, except as otherwise provided in section 2808 of this title. Such warrants may be executed by any authorized inspector or any United States marshal.

(Pub. L. 93-629, § 7, Jan. 3, 1975, 88 Stat. 2150.)

§ 2807. Penalties

Any person who knowingly violates section 2803 or 2804 of this title, or any regulation promulgated under this chapter, shall be guilty of a misdemeanor and shall be punished by a fine not exceeding $5,000, or by imprisonment not exceeding one year, or both.

(Pub. L. 93-629, § 8, Jan. 3, 1975, 88 Stat. 2151.)

§ 2808. Cooperation with other Federal, State, and Local agencies

(a) The Secretary is authorized to cooperate with other Federal agencies, agencies of States, territories, or districts, or political subdivisions thereof, farmers' associations, and similar organizations, and individuals in carrying out operations or measures in the United States to eradicate, suppress, control, or prevent or retard the spread of any noxious weed. The Secretary is authorized to appoint employees of other agencies of the Federal Government or any agencies of any State, territory, or district, or political subdivisions thereof, as collaborators to assist in administration of the provisions of this chapter, pursuant to cooperative agreements with such agencies, whenever he determines that such appointments would facilitate administration of this chapter.

(b) In performing the operations or measures authorized by subsection (a) of this section, the cooperating State or other governmental agency shall be responsible for the authority necessary to carry out the operations or measures on all lands and properties within the State or other jurisdiction involved, other than those owned or controlled by the United States Government, and for such other facilities and means as in the discretion of the Secretary are necessary.

(Pub. L. 93-629, § 9, Jan. 3, 1975, 88 Stat. 2151.)

Section Referred to in Other Sections

This section is referred to in sections 2806, 2810 of this title.

§ 2809. Regulations

The Secretary is authorized to promulgate regulations necessary to effectuate the provisions of this chapter. However, any regulation identifying a noxious weed under section 2803 of this title shall be promulgated only after publication of a notice of the proposed regulation and, when requested by any interested person, a public hearing on the proposal. Any such regulation shall be based upon the information received at any such hearing and other information available to the Secretary and a determination by the Secretary that the plant is within the definition of a noxious weed in section 2802(c) of this title and that its dissemination in the United States may reasonably be expected to have, to a serious degree, any effect specified in section 2802(c) of this title.

(Pub. L. 93-629, § 10, Jan. 3, 1975, 88 Stat. 2151.)

§ 2810. Authorization of appropriations

There are hereby authorized to be appropriated such sums as Congress may from time to time determine to be necessary for the administration of this chapter. Any sums so appropriated shall be available for expenditures for the purchase, hire, maintenance, operation, and exchange of aircraft and other means of conveyance, and for such other expenses as may be necessary to carry out the purposes of this chapter. However, unless specifically authorized in other legislation or provided for in appropriations, no part of such sum shall be used to pay the cost or value of property injured or destroyed under section 2808 of this title.

(Pub. L. 93-629, § 11, Jan. 3, 1975, 88 Stat. 2151.)

§ 2811. Inapplicability to certain shipments

The provisions of this chapter shall not apply to shipments of seed subject to the Federal Seed Act (7 U.S.C. 1551 et seq.) and this chapter shall not amend or repeal any of the provisions of said Act or of the Plant Quarantine Act of August 20, 1912 (7 U.S.C. 151-154, 156-164a, 167), the Federal Plant Pest Act (7 U.S.C. 150aa-150jj), or any other Federal laws.

(Pub. L. 93-629, § 12, Jan. 3, 1975, 88 Stat. 2152.)

References in Text

The Federal Seed Act, referred to in text, is act Aug. 9, 1939, ch. 615, 53 Stat. 1275, which is classified generally to chapter 37 (§ 1551 et seq.) of this title. For complete classification of this Act to the Code, see Tables volume.

The Plant Quarantine Act, referred to in text, is act Aug. 20, 1912, ch. 308, 37 Stat. 319, as amended, which is classified generally to chapter 8 (§ 151 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 151 of this title, and Tables volume.

The Federal Plant Pest Act, referred to in text, is Pub. L. 85-36, title I, May 23, 1957, 71 Stat. 31, which is classified generally to chapter 7B (§ 150aa et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 150aa of this title, and Tables volume.

§ 2812. Inconsistent State and local laws

The provisions of this chapter shall not invalidate the provisions of the laws of any State or political subdivision thereof, or of any territory or district of the United States relating to noxious weeds, except that no such jurisdiction may permit any action that is prohibited under this chapter.

(Pub. L. 93-629, § 13, Jan. 3, 1975, 88 Stat. 2152.)

§ 2813. Separability of provisions

If any provision of this chapter or the application thereof to any person or circumstances is held invalid, the remainder of this chapter and the application of such provision to other persons and circumstances shall not be affected thereby.

(Pub. L. 93-629, § 14, Jan. 3, 1975, 88 Stat. 2152.)

CHAPTER 62—BEEF RESEARCH AND INFORMATION

Sec.

2901. Congressional findings and declaration of policy.
2902. Definitions.
2903. Orders of Secretary to producers and slaughterers.
2904. Notice and hearing upon proposed orders.
2905. Findings and issuance of orders.
2906. Permissive terms and conditions in orders.
(a) Advertising, promotion, producer information, and consumer information plans or projects; prohibition on reference to private brand or trade name and use of false or misleading claims or statements.
(b) Research, market development projects, and studies.
(c) Recordkeeping and reporting requirements; disclosure of confidential information; violations; penalties.
(d) Incidental and necessary terms and conditions.
2907. Required terms and conditions in orders.
(a) Beef Board; establishment; appointment and terms of membership; powers and duties; executive committee.
(b) Composition of Board.
(c) Advertising, sales promotion, consumer information, producer information, research, and development plans or projects; development and submittal to Secretary by Board.
(d) Budgets; submittal to Secretary by Board for approval; submittal to Congressional committees.
(e) Assessments payments; collection; amount; remittance; exempt transactions; rate limitations; maintenance of suit for collection.
(f) Recordkeeping and reporting requirements; accounting by Board.
(g) Contracts or agreements by Board for implementation of orders and payment of costs; required provisions.
(h) Restriction on use of funds collected by Board for political purposes.
(i) Compensation and expenses of members of Board.
2908. Referendum and cattle producer approval of orders; reimbursement of expenses of Secretary; procedural requirements; bonding requirements; definition.

Sec.

2909. Termination or suspension of orders.
(a) Authority of Secretary.
(b) Referendum to terminate or suspend; eligible voters; requirements for approval; termination or suspension date.
(c) Termination or suspension not to be considered as order.
2910. Applicability of provisions to amendments to orders.
2911. Refund of assessment from Beef Board; procedures.
2912. Administrative review of orders; petition; hearing; judicial review.
2913. Enforcement of orders; referral of civil actions to Attorney General; penalties for willful violations; availability of additional remedies.
2914. Certification of organizations; required contents of report as criteria.
2915. State Beef Boards, etc., unaffected by statutory provisions.
2916. Regulations.
2917. Investigations by Secretary; oaths and affirmations; subpenas; judicial enforcement; contempt proceedings; service of process.
2918. Authorization of appropriations.

§ 2901. Congressional findings and declaration of policy

Beef constitutes one of the basic, natural foods in the diet. It is produced by many individual cattle producers throughout the United States. Cattle, beef, and beef products move in interstate and foreign commerce and those which do not move in such channels of commerce directly burden or affect interstate commerce of cattle, beef, and beef products. The maintenance and expansion of existing markets and the development of new or improved markets and uses are vital to the welfare of cattle producers and those concerned with marketing, using, and processing beef as well as the general economy of the Nation. The production and marketing of cattle, beef, and beef products by numerous individual persons in the cattle and beef industry have prevented the development and carrying out of adequate and coordinated programs of research, information, and promotion necessary for the maintenance of markets and the development of new products of, and markets for cattle, beef, or beef products. Without an effective and coordinated method for assuring cooperative and collective action in providing for and financing such programs, individual cattle producers are unable to provide, obtain, or carry out the research, consumer and producer information, and promotion necessary to maintain and improve markets for cattle, beef, and beef products.

It has long been recognized that it is in the public interest to provide an adequate, steady supply of high quality beef and beef products readily available to the consumers of the Nation. Maintenance of markets and the development of new markets, both domestic and foreign, are essential to the cattle industry if the consumers of beef and beef products are to be assured of an adequate, steady supply of such products at reasonable prices.

It is therefore declared to be the policy of the Congress and the purpose of this chapter that it is essential and in the public interest, through the exercise of the powers provided herein, to authorize and enable the establishment of an orderly procedure for the develop-

ment and the financing through an adequate assessment of an effective and continuous coordinated program of research, consumer information, producer information, and promotion designed to strengthen the cattle and beef industry's position in the marketplace, and maintain and expand domestic and foreign markets and uses for United States beef. Nothing in this chapter shall be construed to mean, or provide for, control of production or otherwise limit the right of individual cattle producers to produce cattle or beef.

(Pub. L. 94-294, § 2, May 28, 1976, 90 Stat. 529.)

EFFECTIVE DATE

Section 21 of Pub. L. 94-294 provided that: "This Act [enacting this chapter and provisions set out as notes under this section] shall take effect upon enactment [May 28, 1976]".

SHORT TITLE

Section 1 of Pub. L. 94-294 provided: "That this Act [enacting this chapter and provisions set out as notes under this section] shall be known as the 'Beef Research and Information Act'."

SEPARABILITY OF PROVISIONS

Section 19 of Pub. L. 94-294 provided that: "If any provision of this Act [enacting this chapter and provisions set out as notes under this section] or the application thereof to any person or circumstances is held invalid, the validity of the remainder of the Act and of the application of such provision to other persons and circumstances shall not be affected thereby".

§ 2902. Definitions

As used in this chapter—

(a) The term "Secretary" means the Secretary of Agriculture or any other officer or employee of the Department of Agriculture to whom there has heretofore been delegated, or to whom there may hereafter be delegated, the authority to act in his stead.

(b) The term "person" means any individual, group of individuals, partnership, corporation, association, cooperative, or any other entity.

(c) The term "cattle" means live domesticated bovine quadrupeds.

(d) The term "beef" means the flesh of cattle.

(e) The term "beef products" means products produced in whole or in part from cattle, exclusive of milk and products made therefrom.

(f) The term "producer" means any person who owns or acquires ownership of cattle: *Provided,* That a person shall not be considered to be a producer if his only share in the proceeds of a sale of cattle or beef is a sales commission, handling fee, or other service fee.

(g) The term "producer-buyer" means a producer who buys cattle.

(h) The term "producer-seller" means a producer who sells cattle.

(i) The term "United States" means the fifty States of the United States of America and the District of Columbia.

(j) The term "promotion" means any action to advance the image or desirability of beef and beef products.

(k) The term "research" means any type of research to advance the desirability, marketability, production, or quality of cattle, beef, and beef products.

(*l*) The term "consumer information" means facts, data, and other information that will assist consumers and other persons in making evaluations and decisions regarding the purchasing, preparation, and utilization of beef and beef products.

(m) The term "producer information" means facts, data, and other information that will assist producers in making decisions that lead to increased efficiency, lower cost of production, a stable supply of cattle, and the development of new markets.

(n) The term "marketing" means the sale or other disposition of cattle, beef, or beef products, in any channel of commerce.

(*o*) The term "commerce" means interstate, foreign, or intrastate commerce.

(p) The term "transaction" means the transfer of ownership of cattle or beef through a sale, trade, or other means of exchange.

(q) The term "slaughterer" means any person, specified in the order or the rules and regulations issued thereunder, who slaughters cattle, including cattle of his own production.

(Pub. L. 94-294, § 3, May 28, 1976, 90 Stat. 530.)

§ 2903. Orders of Secretary to producers and slaughterers

To effectuate the declared policy of this chapter, the Secretary shall, subject to the provisions of this chapter, issue and from time to time amend an order applicable to producers and slaughterers. Such an order shall be applicable to all areas in the United States.

(Pub. L. 94-294, § 4, May 28, 1976, 90 Stat. 530.)

§ 2904. Notice and hearing upon proposed orders

Whenever the Secretary has reason to believe that the issuance of an order will tend to effectuate the declared policy of this chapter, he shall give due notice and opportunity for hearing upon a proposed order. Such hearing may be requested and proposal for an order submitted by an organization certified pursuant to section 2914 of this title, or by any interested person affected by the provisions of this chapter, including the Secretary.

(Pub. L. 94-294, § 5, May 28, 1976, 90 Stat. 530.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2905, 2914 of this title.

§ 2905. Findings and issuance of orders

After notice and opportunity for hearing as provided in section 2904 of this title, the Secretary shall issue an order if he finds, and sets forth in such order, upon the evidence introduced at such hearing, that the issuance of such order and all the terms and conditions thereof will tend to effectuate the declared policy of this chapter.

(Pub. L. 94-294, § 6, May 28, 1976, 90 Stat. 531.)

§ 2906. Permissive terms and conditions in orders

Any order issued pursuant to this chapter shall contain one or more of the following terms and conditions, and except as provided in section 2907 of this title, no others:

(a) Advertising, promotion, producer information, and consumer information plans or projects; prohibition on reference to private brand or trade name and use of false or misleading claims or statements

Providing for the establishment, issuance, effectuation, and administration of appropriate plans or projects for advertising, promotion, producer information, and consumer information with respect to the use of cattle, beef, or beef products and for the disbursement of necessary funds for such purposes: *Provided, however,* That any such plan or project shall be directed toward increasing the general demand for cattle, beef, or beef products. No reference to a private brand or trade name shall be made if the Secretary determines that such reference will result in undue discrimination against the cattle, beef, or beef products of other persons. No such advertising, consumer education, or sales promotion programs shall make use of false or misleading claims in behalf of cattle, beef, or beef products, or false or misleading statements with respect to quality, value, or use of any competing product.

(b) Research, market development projects, and studies

Providing for, establishing, and carrying on research, market development projects, and studies with respect to sale, distribution, marketing, utilization, or production of cattle, beef, or beef products, and the creation of new products thereof, to the end that the production, marketing, and utilization of cattle, beef, or beef products may be encouraged, expanded, improved, or made more acceptable, and the data collected by such activities may be disseminated, and providing for the disbursement of necessary funds for such purposes.

(c) Recordkeeping and reporting requirements; disclosure of confidential information; violations; penalties

Providing that slaughterers shall maintain and make available for the inspection such books and records as may be required by any order or regulations issued pursuant to this chapter and for the filing of reports by such persons at the time, in the manner, and having content prescribed by the order or regulations to the end that information and data shall be made available to the Beef Board and to the Secretary which is appropriate or necessary to the effectuation, administration, or enforcement of the chapter, or of any order or regulation issued pursuant to this chapter: *Provided, however,* That all information so obtained shall be kept confidential by all officers and employees of the Department of Agriculture and of the Beef Board, and by all officers and employees of contracting agencies having access to such information, and only such information so furnished or acquired as the Secretary deems relevant shall be disclosed by them, and then only in a suit or administrative hearing brought at the direction, or upon the request, of the Secretary, or to which he or any officer of the United States is a party, and involving the order with reference to which the information so to be disclosed was furnished or acquired. Nothing in this section shall be deemed to prohibit (1) the issuance of general statements based upon the reports of the number of persons subject to an order or statistical data collected therefrom, which statements do not identify the information furnished by any person, (2) the publication of general statements relating to refunds made by the Beef Board during any specific period, which statements do not identify any person to whom refunds are made, or (3) the publication by direction of the Secretary of the name of any person violating any order, together with a statement of the particular provisions of the order violated by such person. Any such officer or employee violating the provision of the subsection shall, upon conviction, be subjected to a fine of not more than $1,000 or to imprisonment for not more than one year, or to both, and if an officer or employee of the Beef Board or the Department of Agriculture, he shall be removed from office.

(d) Incidental and necessary terms and conditions

Terms and conditions incidental to and not inconsistent with the terms and conditions specified in this chapter and necessary to effectuate the other provisions of such order.

(Pub. L. 94-294, § 7, May 28, 1976, 90 Stat. 531.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2907 of this title.

§ 2907. Required terms and conditions in orders

Any order issued pursuant to this chapter shall contain the following terms and conditions:

(a) Beef Board; establishment; appointment and terms of membership; powers and duties; executive committee

Providing for the establishment and appointment, by the Secretary, of a Beef Board which shall consist of not more than sixty-eight members, and alternates therefor, and defining its powers and duties which shall include only the powers (1) to administer such order in accordance with its terms and provisions, (2) to make rules and regulations to effectuate the terms and provisions of such order, (3) to receive, investigate, and report to the Secretary complaints of violations of such order, (4) to recommend to the Secretary amendments to such order. The term of an appointment to the Beef Board shall be for three years with no member serving more than six consecutive years, except that initial appointment shall be proportionately for one, two, and three years: *Provided,* That the Beef Board shall appoint from its members an executive committee, consisting of not less than seven nor more than eleven members who are broadly representative of the industry, with authority to employ a staff and conduct routine business within the policies determined by the Beef Board.

(b) Composition of Board

Providing that the Beef Board, and alternates therefor, shall be composed of cattle producers appointed by the Secretary from nominations submitted by eligible producer organizations, associations, general farm organizations, or cooperatives, within the geographic area, and certified pursuant to section 2914 of this title, or, if

the Secretary determines that substantial number of producers are not members of or their interests are not represented by any such eligible organizations, associations, or cooperatives, from nominations made by such producers in the manner authorized by the Secretary so that the representation of producers on the Board shall reflect, to the extent practicable, the proportion of cattle produced in each geographic area of the United States as defined by the Secretary: *Provided,* That the Beef Board shall from time to time, with the approval of the Secretary, redesignate representation on the Beef Board so as to reflect the proportion of cattle in each geographic area: *Provided, however,* That each such designated geographic area shall be entitled to at least one representative on the Beef Board.

(c) Advertising, sales promotion, consumer information, producer information, research, and development plans or projects; development and submittal to Secretary by Board

Providing that the Beef Board shall, subject to the provisions of subsection (g) of this section, develop and submit to the Secretary for his approval any advertising, sales promotion, consumer information, producer information, research, and development plans or projects, and that any such plan or project must be approved by the Secretary before becoming effective.

(d) Budgets; submittal to Secretary by Board for approval; submittal to Congressional committees

Providing that the Beef Board shall, subject to the provisions of subsection (g) of this section, submit to the Secretary for his approval budgets on a fiscal period basis of its anticipated expenses and disbursements in the administration of the order, including probable costs of advertising, promotion, producer information, consumer information, research, and development projects. The Beef Board shall also submit copies of such budgets to the House Committee on Agriculture and the Senate Committee on Agriculture, Nutrition, and Forestry.

(e) Assessments payments; collection; amount; remittance; exempt transactions; rate limitations; maintenance of suit for collection

Providing, that—

(1) In each transaction where a producer sells or otherwise transfers ownership of cattle to any other producer, each such producer-seller shall pay to the producer-buyer and each producer-buyer shall collect from the producer-seller an assessment based on the value of the cattle involved in the transaction. Each producer who sells to a slaughterer or otherwise arranges for the slaughter of his cattle shall pay to the slaughterer and the slaughterer shall collect from such producer an assessment based on the value of the cattle involved. The slaughterer shall remit assessment(s) collected to the Beef Board in the manner prescribed by the order or the regulations issued thereunder, including any assessment(s) due at time of slaughter on cattle of his own production. In the event no sales transaction occurs at the point of slaughter, a fair value shall be attributed to the cattle at the time of slaughter for the purposes of determining the assessment: *Provided,* That the Beef Board may exempt from or vary the assessment on transactions of breeding animals or classes of breeding animals until time of slaughter: *Provided further,* That cattle slaughtered for his own home consumption by a producer who has been the sole owner of such cattle shall not be subject to assessments provided in this chapter: *Provided further,* That the Beef Board may collect directly from any producer any assessments that he collected under the provisions of this chapter, which are not passed along in the usual manner due to the loss in value of the cattle.

(2) The rate of assessment shall be as prescribed by the order except the aggregate rate shall not exceed one-half of 1 percent and shall provide for such expenses and expenditures, including provision for a reasonable reserve, and any referendum and administrative costs incurred by the Secretary under this chapter, as the Secretary finds are reasonable and likely to be incurred by the Beef Board under the order during any period specified by him.

(3) To facilitate the collection of assessments, the Beef Board may specify different procedures for slaughterers, or classes of slaughterers, to recognize differences in marketing practices or procedures utilized in the industry.

(4) The Secretary may maintain a suit against any person subject to the order for the collection of such assessment and the several district courts of the United States are hereby vested with jurisdiction to entertain such suits regardless of the amount in controversy.

(f) Recordkeeping and reporting requirements; accounting by Board

Providing that the Beef Board shall maintain such books and records and prepare and submit such reports from time to time to the Secretary as he may prescribe, and for appropriate accounting by the Beef Board with respect to the receipt and disbursement of all funds entrusted to it.

(g) Contracts or agreements by Board for implementation of orders and payment of costs; required provisions

Providing that the Beef Board, with the approval of the Secretary, may enter into contracts or agreements for development and carrying out the activities authorized under the order pursuant to section 2906(a) and (b) of this title and for the payment of the cost thereof with funds collected pursuant to the order. Any such contract or agreement shall provide that such contractors shall develop and submit to the Beef Board a plan or project together with a budget or budgets which shall show estimated costs to be incurred for such plan or project, and that any such plan or project shall become effective upon the approval of the Secretary, and further, shall provide that the contracting parties shall keep accurate records of all of their activities and make periodic reports to the Beef Board of activities carried out and an accounting for funds received and expended, and such other reports as the Secretary may require.

(h) Restriction on use of funds collected by Board for political purposes

Providing that no funds collected by the Beef Board under the order shall in any manner be used for the purpose of influencing governmental policy or action, except as provided by subsection (a)(4) of this section.

(i) Compensation and expenses of members of Board

Providing the Beef Board members, and alternates therefore, shall serve without compensation, but shall be reimbursed for their reasonable expenses incurred in performing their duties as members of the Beef Board.

(Pub. L. 94-294, § 8, May 28, 1976, 90 Stat. 532; S. Res. 4, Feb. 4, 1977.)

CHANGE OF NAME

The Committee on Agriculture and Forestry of the Senate was abolished and replaced by the Committee on Agriculture, Nutrition, and Forestry of the Senate, effective Feb. 11, 1977. See Rule XXV of the Standing Rules of the Senate, as amended by Senate Resolution 4 (popularly cited as the "Committee System Reorganization Amendments of 1977"), approved Feb. 4, 1977.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2906, 2914 of this title.

§ 2908. Referendum and cattle producer approval of orders; reimbursement of expenses of Secretary; procedural requirements; bonding requirements; definition

The Secretary shall conduct a referendum as soon as practicable among producers who at any time, during a consecutive twelve-month representative period preceding the date of the referendum, as determined by the Secretary, have been engaged in the production of cattle for the purpose of ascertaining whether the issuance of an order is approved or favored by such producers. The Secretary shall establish a procedure whereby all known cattle producers are notified of the referendum and the time and place of balloting and qualified producers may register with the Agriculture Stabilization and Conservation Service in person or by mail to vote in such a referendum during a period ending not less than ten days prior to the date of the referendum. No order issued pursuant to this chapter shall be effective unless the Secretary determines (1) that votes were cast by at least 50 per centum of the registered producers, and (2) that the issuance of such order is approved or favored by not less than two-thirds of the producers voting in such referendum. The Secretary shall be reimbursed from assessments collected by the Beef Board for any expenses incurred for the conduct of the referendum. Eligible voter lists and ballots cast in the referendum shall be retained by the Secretary for a period of not less than twelve months after they are cast for audit and recount in the event the results of the referendum are challenged and either the Secretary or the Courts determine a recount and retabulation of results is appropriate. Prior to the hoiding of the referendum, sureties shall have posted a bond or other security, acceptable to the Secretary, in an amount which the Secretary shall determine to be sufficient to pay any expenses incurred for the conduct of the referendum. For the purpose of this section, the term "expenses incurred for the conduct of the referendum" shall include all costs incurred by the Government in connection therewith, except for salaries of Government employees.

(Pub. L. 94-294, § 9, May 28, 1976, 90 Stat. 534.)

§ 2909. Termination or suspension of orders

(a) Authority of Secretary

The Secretary shall, whenever he finds that any order issued under this chapter, or any provision(s) thereof, obstructs or does not tend to effectuate the declared policy of this chapter, terminate or suspend the operation of such order or such provision(s) thereof.

(b) Referendum to terminate or suspend; eligible voters; requirements for approval; termination or suspension date

The Secretary may conduct a referendum at any time, and shall hold a referendum on request of 10 per centum or more of the number of producers voting in the referendum approving the order, to determine whether such producers favor the termination or suspension of the order, and he shall suspend or terminate such order six months after he determines that suspension or termination of the order is approved or favored by a majority of the producers voting in such referendum who, during a representative period determined by the Secretary, have been engaged in the production of cattle, and who produced more than 50 per centum of the volume of cattle produced by the producers voting in the referendum.

(c) Termination or suspension not to be considered as order

The termination or suspension of any order, or any provision thereof, shall not be considered an order within the meaning of this chapter.

(Pub. L. 94-294, § 10, May 28, 1976, 90 Stat. 535.)

§ 2910. Applicability of provisions to amendments to orders

The provisions of this chapter applicable to orders shall be applicable to amendments to orders.

(Pub. L. 94-294, § 11, May 28, 1976, 90 Stat. 535.)

§ 2911. Refund of assessment from Beef Board; procedures

Notwithstanding any other provisions of this chapter, any producer against whose cattle any assessment is made and collected from him under authority of this chapter and who is not in favor of supporting the programs as provided for herein shall have the right to demand and receive from the Beef Board a refund of such assessment: *Provided,* That such demand shall be made in accordance with regulations on a form and within a time period prescribed by the Board and approved by the Secretary but in no event more than sixty days after the end of the month in which the sale or slaughter of said cattle occurred and upon submission of proof satisfactory to the Board that the producer paid the assessment for which refund is sought, and any such refund shall be made within sixty days after demand is received

therefor: *Provided, however,* That no producer shall claim or receive a refund of any portion of an assessment which he collected from other producers.

(Pub. L. 94-294, § 12, May 28, 1976, 90 Stat. 535.)

§ 2912. Administrative review of orders; petition; hearing; judicial review

(a) Any person subject to any order may file a written petition with the Secretary, stating that any such order or any provision of such order or any obligation imposed in connection therewith is not in accordance with law and praying for a modification thereof or to be exempted therefrom. He shall thereupon be given an opportunity for a hearing upon such petition, in accordance with regulations made by the Secretary. After such hearing, the Secretary shall make a ruling upon the prayer of such petition which shall be final, if in accordance with law.

(b) The district courts of the United States in any district in which such person is an inhabitant, or has his principal place of business, are hereby vested with jurisdiction to review such ruling, provided a complaint for that purpose is filed within twenty days from the date of the entry of such ruling. Service of process in such proceedings may be had upon the Secretary by delivering to him a copy of the complaint. If the court determines that such ruling is not in accordance with law, it shall remand such proceedings to the Secretary with directions either (1) to make such ruling as the court shall determine to be in accordance with the law, or (2) to take such further proceedings as, in its opinion, the law requires. The pendency of proceedings instituted pursuant to subsection (a) of this section shall not impede, hinder, or delay the United States or the Secretary from obtaining relief pursuant to section 2913(a) of this title.

(Pub. L. 94-294, § 13, May 28, 1976, 90 Stat. 535.)

CODIFICATION

In the original, subsec. (b) of this section was designated as "(d)" and has been editorially changed for purposes of codification as the probable intent of Congress.

§ 2913. Enforcement of orders; referral of civil actions to Attorney General; penalties for willful violations; availability of additional remedies

(a) The several district courts of the United States are vested with jurisdiction specifically to enforce, and to prevent and restrain any person from violating any order or regulation made or issued pursuant to this chapter. Any civil action authorized to be brought under this chapter shall be referred to the Attorney General for appropriate action: *Provided,* That nothing in this chapter shall be construed as requiring the Secretary to refer to the Attorney General minor violations of this chapter whenever he believes that the administration and enforcement of the program would be adequately served by suitable written notice or warning to any person committing such violation.

(b) Any person who willfully violates any provision of any order issued by the Secretary under this chapter, or who willfully fails or refuses to collect or remit any assessment duly required of him thereunder, shall be liable to a penalty of not more than $1,000 for each such violation which shall accrue to the United States and may be recovered in a civil suit brought by the United States: *Provided,* That subsections (a) and (b) of this section shall be in addition to, and not exclusive of, the remedies provided now or hereafter existing at law or in equity.

(Pub. L. 94-294, § 14, May 28, 1976, 90 Stat. 536.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2912 of this title.

§ 2914. Certification of organizations; required contents of report as criteria

The eligibility of any organization to represent producers of any designated geographic area of the United States to request the issuance of an order under section 2904 of this title, and to participate in the making of nominations under section 2907(b) of this title shall be certified by the Secretary. Certification shall be based, in addition to other available information, upon a factual report submitted by the organization which shall contain information deemed relevant and specified by the Secretary for the making of such determination, including, but not limited to, the following:

(a) geographic territory covered by the organization's active membership,

(b) nature and size of the organization's active membership, proportion of total of such active membership accounted for by producers of cattle, and the volume of cattle produced by the organization's active membership in each such State,

(c) the extent to which the cattle producer membership of such organization is represented in setting the organization's policies,

(d) evidence of stability and permanency of the organization,

(e) sources from which the organization's operating funds are derived,

(f) functions of the organization, and

(g) the organization's ability and willingness to further the aims and objectives of this chapter:

Provided, however, That the primary consideration in determining the eligibility of an organization shall be whether its producer membership consists of a substantial number of producers who produce a substantial volume of cattle subject to the provisions of this chapter. The Secretary shall certify any organization which he finds to be eligible under this section and his determination as to eligibility shall be final. Where more than one organization is certified in any geographic area, such organizations may caucus to determine the area's nominations under section 2907(b) of this title.

(Pub. L. 94-294, § 15, May 28, 1976, 90 Stat. 536.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2904, 2907 of this title.

§ 2915. State Beef Boards, etc., unaffected by statutory provisions

Nothing in this chapter shall be construed to preempt or interfere with the workings of any beef board, beef council, or other beef promotion entity organized and operating within and by authority of any of the several States.

(Pub. L. 94-294, § 16, May 28, 1976, 90 Stat. 537.)

§ 2916. Regulations

The Secretary is authorized to issue regulations with the force and effect of law as may be necessary to carry out the provisions of this chapter and the powers vested in him by this chapter.

(Pub. L. 94-294, § 17, May 28, 1976, 90 Stat. 537.)

§ 2917. Investigations by Secretary; oaths and affirmations; subpenas; judicial enforcement; contempt proceedings; service of process

The Secretary may make such investigation as he deems necessary for the effective carrying out of his responsibilities under this chapter or to determine whether a producer or slaughterer of cattle or any other person has engaged or is about to engage in any acts or practice which constitute or will constitute a violation of any provisions of this chapter, or of any order, or rule or regulation issued under this chapter. For the purpose of such investigation, the Secretary is empowered to administer oaths and affirmations, subpena witnesses, compel their attendance, take evidence, and require the production of any books, papers and documents which are relevant to the inquiry. Such attendance of witnesses and the production of any such records may be required from any place in the United States. In case of contumacy by, or refusal to obey a subpena to, any person, including a producer, the Secretary may invoke the aid of any court of the United States within the jurisdiction of which such investigation or proceeding is carried on, or where such person resides or carries on business, in requiring the attendance and testimony of witnesses and the production of books, papers, and documents; and such court may issue an order requiring such person to appear before the Secretary, there to produce records, if so ordered, or to give testimony touching the matter under investigation. Any failure to obey such order of the court may be punished by such court as a contempt thereof. All process in any such case may be served in the judicial district whereof such person is an inhabitant or wherever he may be found.

(Pub. L. 94-294, § 18, May 28, 1976, 90 Stat. 537.)

§ 2918. Authorization of appropriations

There is hereby authorized to be appropriated out of any money in the Treasury not otherwise appropriated such funds as are necessary to carry out the provisions of this chapter. The funds so appropriated shall not be available for payment of the expenses or expenditures of the Beef Board in administering any provisions of any order issued pursuant to the terms of this chapter.

(Pub. L. 94-294, § 20, May 28, 1976, 90 Stat. 538.)

CHAPTER 63—FARMER-TO-CONSUMER DIRECT MARKETING

Sec.
3001. Congressional statement of purpose.
3002. Definitions.
3003. Survey.
3004. Direct marketing assistance within the States; allocation of funds; activities to be included in direct marketing program; consideration of consumer preferences.
3005. Review of activities by Secretary; annual report to congressional committees.
3006. Authorization of appropriations.

§ 3001. Congressional statement of purpose

It is the purpose of this chapter to promote, through appropriate means and on an economically sustainable basis, the development and expansion of direct marketing of agricultural commodities from farmers to consumers. To accomplish this objective, the Secretary of Agriculture (hereinafter referred to as the "Secretary") shall initiate and coordinate a program designed to facilitate direct marketing from farmers to consumers for the mutual benefit of consumers and farmers.

(Pub. L. 94-463, § 2, Oct. 8, 1976, 90 Stat. 1982.)

Short Title

Section 1 of Pub. L. 94-463 provided: "That this Act [enacting this chapter and provisions set out as a note under section 5145 of Title 42] may be cited as the 'Farmer-to-Consumer Direct Marketing Act of 1976'."

§ 3002. Definitions

For purposes of this chapter, the term "direct marketing from farmers to consumers" shall mean the marketing of agricultural commodities at any marketplace (including, but not limited to, roadside stands, city markets, and vehicles used for house-to-house marketing of agricultural commodities) established and maintained for the purpose of enabling farmers to sell (either individually or through a farmers' organization directly representing the farmers who produced the commodities being sold) their agricultural commodities directly to individual consumers, or organizations representing consumers, in a manner calculated to lower the cost and increase the quality of food to such consumers while providing increased financial returns to the farmers.

(Pub. L. 94-463, § 3, Oct. 8, 1976, 90 Stat. 1982.)

§ 3003. Survey

The Secretary shall provide, through the Economic Research Service of the United States Department of Agriculture, or whatever agency or agencies the Secretary considers appropriate, a continuing survey of existing methods of direct marketing from farmers to consumers in each State. The initial survey, which shall be completed no later than one year following October 8, 1976, shall include the number of types of such marketing methods in existence, the volume of business conducted through each such marketing method, and the impact of such marketing methods upon financial returns to farmers (including their impact upon improving

the economic viability of small farmers) and food quality and costs to consumers.

(Pub. L. 94-463, § 4, Oct. 8, 1976, 90 Stat. 1982.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 3006 of this title.

§ 3004. Direct marketing assistance within the States; allocation of funds; activities to be included in direct marketing program; consideration of consumer preferences

(a) In order to promote the establishment and operation of direct marketing from farmers to consumers, the Secretary shall provide that funds appropriated to carry out this section be utilized by State departments of agriculture and the Extension Service of the United States Department of Agriculture for the purpose of conducting or facilitating activities which will initiate, encourage, develop, or coordinate methods of direct marketing from farmers to consumers within or among the States. Such funds shall be allocated to a State on the basis of the feasibility of direct marketing from farmers to consumers within that State as compared to other States and shall be allocated within a State to the State department of agriculture and to the Extension Service on the basis of the types of activities which are needed in the State and on the basis of which of these two agencies, or combination thereof, can best perform these activities. The activities shall include, but shall not be limited to—

(1) sponsoring conferences which are designed to facilitate the sharing of information (among farm producers, consumers, and other interested persons or groups) concerning the establishment and operation of direct marketing from farmers to consumers;

(2) compiling laws and regulations relevant to the conduct of the various methods of such direct marketing within the State, formulating drafts and enabling legislation needed to facilitate such direct marketing, determining feasible locations for additional facilities for such direct marketing, and preparing and disseminating practical information on the establishment and operation of such direct marketing; and

(3) providing technical assistance for the purpose of aiding interested individuals or groups in the establishment of arrangements for direct marketing from farmers to consumers.

(b) In the implementation of this section, the Secretary shall take into account consumer preferences and needs which may bear upon the establishment and operation of arrangements for direct marketing from farmers to consumers.

(Pub. L. 94-463, § 5, Oct. 8, 1976, 90 Stat. 1982.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 3006 of this title.

§ 3005. Review of activities by Secretary; annual report to congressional committees

The Secretary shall periodically review the activities carried out under this chapter and shall report to the Committee on Agriculture, United States House of Representatives, and the Committee on Agriculture, Nutrition, and Forestry, United States Senate, within one year of October 8, 1976, and annually thereafter, with respect to the effectiveness of this chapter. The Secretary shall include in such report a State-by-State summary of the results of the survey conducted under this chapter, and a summary of the activities and accomplishments of the Extension Service and the State departments of agriculture in the development of direct marketing from farmers to consumers during the previous year.

(Pub. L. 94-463, § 6, Oct. 8, 1976, 90 Stat. 1983; S. Res. 4, Feb. 4, 1977.)

CHANGE OF NAME

The Committee on Agriculture and Forestry of the Senate was abolished and replaced by the Committee on Agriculture, Nutrition, and Forestry of the Senate, effective Feb. 11, 1977. See Rule XXV of the Standing Rules of the Senate, as amended by Senate Resolution 4 (popularly cited as the "Committee System Reorganization Amendments of 1977"), approved Feb. 4, 1977.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 3006 of this title.

§ 3006. Authorization of appropriations

(a) For purposes of carrying out the provisions of sections 3003 and 3005 of this title, there are authorized to be appropriated such sums as are necessary.

(b) For purposes of carrying out the provisions of section 3004 of this title, there is authorized to be appropriated $1,500,000 for each of the fiscal years ending September 30, 1977, and September 30, 1978.

(Pub. L. 94-463, § 7, Oct. 8, 1976, 90 Stat. 1983.)